

1 IN THE UNITED STATES DISTRICT COURT.  
2 FOR THE DISTRICT OF NEW JERSEY  
3 CIVIL 02-2917 (JEI)

4 PATRICK BRADY, SALLY YOUNG,  
5 HOWARD HOLLANDER, THEODORE CASE,  
6 AND MICHAEL FINUCAN, individually  
7 and on behalf of all others  
8 similarly situated,  
9 Plaintiffs,

10 V.

VOLUME 11  
TRIAL TRANSCRIPT

11 AIR LINE PILOTS ASSOCIATION,  
12 Defendant.

CAMDEN, NEW JERSEY  
JUNE 27, 2011

13 B E F O R E: HONORABLE JOSEPH E. IRENAS  
14 UNITED STATES DISTRICT JUDGE

15 A P P E A R A N C E S:

16 TRUJILLO, RODRIGUEZ & RICHARD  
17 BY: NICOLE M. ACCHIONE, ESQ.  
18 AND: LISA J. RODRIGUEZ, ESQ.  
19 AND  
20 GREEN JACOBSON, P.C.  
21 BY: ALLEN PRESS, ESQ. (MO. BAR)  
22 AND: JOE D. JACOBSON, ESQ. (MO. BAR)  
23 For the Plaintiffs.

24 ARCHER GREINER  
25 BY: STEVEN FRAM, ESQ.  
AND  
KATZ & RANZMAN  
BY: DANIEL M. KATZ, ESQ.  
FOR THE DEFENDANT AIR LINE PILOTS ASSOCIATION.

ELIZABETH GINSBURG, ESQ.  
IN-HOUSE COUNSEL FOR ALPA.

1           Pursuant to Section 753 Title 28 United States  
2     Code, the following transcript is certified to be an  
3     accurate record as taken stenographically in the  
4     above-entitled proceedings.

5                                 S/     LYNNE JOHNSON

6                                 Lynne Johnson, CSR, CM, CRR  
7                                 Official Court Reporter

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17                                 LYNNE JOHNSON, CSR, CM, CRR  
18                                 OFFICIAL COURT REPORTER  
19                                 UNITED STATES DISTRICT COURT  
20                                 P.O. BOX 6822  
21                                 LAWRENCEVILLE, NJ 08648  
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1 (The jury enters the courtroom.)

2 THE COURT: Good morning, everybody.

3 Please be seated.

4 THE COURT: Okay. Just for the record, the Rule 50  
5 motion of the defendant, I understand, is going to be  
6 electronically filed some time this morning. Did you say it  
7 was this morning.

8 MR. FRAM: By the end of the day, your Honor.

9 THE COURT: That is fine. I just want to keep  
10 track of that.

11 All right. The plaintiff has rested. Now I  
12 recognize, is it Mr. Katz, are you going to present this?

13 MR. KATZ: Yes, your Honor.

14 THE COURT: I recognize Mr. Katz to present his  
15 first witness.

16 MR. KATZ: The Air Line Pilots Association calls  
17 Duane Woerth as its first witness.

18 DUANE EDWARD WOERTH, sworn.

19 DIRECT EXAMINATION.

20 BY MR. KATZ:

21 THE COURT: You may proceed.

22 Q. Good morning, Mr. Woerth.

23 A. Good morning.

24 Q. Would you state your address for the record, please?

25 A. I currently live at Rue Drummond in Montreal, Quebec.

1 Q. And would you explain for the jury your educational  
2 background, please?

3 A. Educational background, I have a bachelor's degree in  
4 business administration from the University of Nebraska, a  
5 master's degree in public administration from the University  
6 of Oklahoma.

7 Q. And would you describe for the jury, please, your  
8 military service?

9 A. Yes. I served six years on active duty in the United  
10 States Air Force from 1970 to 1976, and 15 years in the  
11 Kansas international guard where I retired as a lieutenant  
12 colonel.

13 Q. Were you a pilot during this period of time?

14 A. Excuse me.

15 Q. Were you a pilot with the United States Air Force?

16 A. Yes, I was a pilot for the United States Air Force.

17 Q. Did you serve any time in war zones or the Middle East?

18 A. I was a pilot during the Vietnam war I was not ever  
19 stationed in Vietnam. I flew to Thailand. I was called to  
20 active duty again in Desert Shield.

21 I served in Saudi Arabia at that period in 1990  
22 after Saddam Hussein invaded Kuwait.

23 Q. And you worked for the airlines. Would you describe  
24 when you were first hired as a pilot by a major airline?

25 A. My first piloting job in the airlines was with Braniff

1 Airlines in May of 1977. I stayed there until bran I have  
2 failed, and was liquidated really in 1982, and a few months  
3 after that I was hired by northwest orient airlines, where  
4 where I remained employed and retired from Northwest in 2008.

5 Q. Being going go back to your employment at Braniff, how  
6 was it that your service there ended, what happened with  
7 Braniff?

8 A. Braniff filed for bankruptcy in May of 1982, and  
9 completely shut their doors, even though it was Chapter 11  
10 they completely seized operation and everyone lost their job.

11 Q. At Northwest, what positions did you hold as a pilot  
12 there?

13 A. I held, I started of course as a second officer on the  
14 727, and flew the 727, became a captain, flew the 747 as well  
15 as through all the positions.

16 Q. Would you explain for the jury what your work was with  
17 the Air Line Pilots Association, starting from the first  
18 elective or appointed office?

19 A. Yes. I was, I first did some volunteer work for Braniff  
20 Airlines in Kansas City's local Council, that is where I was  
21 domiciled for a majority of the period of time with Braniff.

22 I was first elected to an elected position in 1981,  
23 I believe, and I served in that position until our domicile  
24 was closed earlier in 1982, and then of course we liquidated,  
25 so I was an elected representative, secretary treasurer of

1 Braniff council 45. When I got to Northwest airlines I got  
2 on proceed got off probation and was eligible to serve again.

3 I did some volunteer work but my first elected  
4 position I think was in 1986 I became a second officer  
5 representative in New York, Council 116.

6 I was reelected to that position a couple of times.  
7 I later became of the Master Executive Council, the secretary  
8 treasurer of the Northwest Master Executive Council.

9 Q. Was that also in 1986, Mr. Woerth?

10 A. That was 1989 by the time I think I was that position.  
11 In 1990, after the merger of Northwest and Republic Airlines,  
12 I became the chairman of the MEC of the combined group of  
13 Republic and Northwest.

14 Simultaneous to that I was also elected executive  
15 vice president of the Air Line Pilots Association and served  
16 on their executive council.

17 Q. Let me ask you to pause there for a moment. So the jury  
18 can follow these various offices. When you were elected to  
19 be an executive vice president and served on the ALPA  
20 Executive Council, was that what is considered a national  
21 office?

22 A. That is considered a national office, yes.

23 Q. And when you are elected you explained you were elected  
24 to be the second officer representative at Braniff and then  
25 later on the Northwest Airlines. What other offices

1 automatically come with that, in terms of the service on  
2 other governing bodies of the Air Line Pilots Association?

3 A. If, when you are elected to a local council  
4 representative you are automatically part of what is known as  
5 the Master Executive Council, the MEC, so you serve your  
6 local pilots but you also get to vote on the MEC executive  
7 council.

8 When I was an officer of both the secretary  
9 treasurer of the MEC and MEC office chairman of Northwest I  
10 had those responsibilities, but as an executive vice  
11 president, the executive council is kind of like the  
12 fiduciary body of the association, and make rulings on the  
13 Constitution and bylaws and sets the budget.

14 Q. Approximately how many members did the executive council  
15 have at that time?

16 A. When I first got on the council I think we only had nine  
17 members of executive council, five executive vice presidents  
18 and four national officers. It has since been expanded to  
19 about 13, is my understanding.

20 Q. And you also, in this case, there have also been  
21 references to the ALPA executive board, and the board of  
22 directors. Would you explain for the jury's benefit what the  
23 composition of those bodies is?

24 A. The ALP board of directors is composed of approximately  
25 300 members, all the LEC members were directly elected by

1 their membership are automatically part of the overall board.  
2 They are the highest governing body of the association. Kind  
3 of like the Congress of the union.

4 Q. And the board of directors consists of all of the  
5 council representatives?

6 A. That's correct.

7 Q. And what about the executive board?

8 A. The executive board is the chairman, the master  
9 executive council chairman of each individual airlines MEC.  
10 So if we have 40 airlines there is 40 members of the  
11 executive board.

12 Q. When you were elected to be the Northwest airlines MEC  
13 chairman, that automatically entitles you to serve on the  
14 executive board?

15 A. Yes.

16 Q. All right. And what role does it play in the governance  
17 of the association?

18 A. I guess in the hierarchy it is the second highest  
19 governing body in terms of making policy for the overall  
20 union.

21 Q. All right. And while we are on the subject, could you  
22 explain to the jury, please, how decisions are made on a  
23 regular day-to-day basis in connection with the pilots  
24 working agreement and the negotiation and administration of  
25 the working agreement?



1 A. We have kind of a stage right approach to our union  
2 that's correct each individual property, whether it be TWA,  
3 Delta, whether it be United, that the members who are  
4 directly elected by the pilots, they will select who their  
5 officers are, their chairman, their secretary treasurer.  
6 They also, those bodies also determine who is their  
7 negotiating committee, who is on their merger committee.  
8 They are the ones who have control of the ultimate processes  
9 that leads to contracts and ratifying contracts, to give to  
10 the membership. They are the highest governing body at the  
11 local level.

12 Q. So they make the decisions?

13 A. They make the decisions.

14 Q. All right. I think you were tracing your offices that  
15 you had been elected to up to Northwest MEC chairman. What  
16 year was that?

17 A. I was elected in May of 1990.

18 Q. All right. And that was for the combined Republic  
19 Northwest airlines, I think you mentioned?

20 A. That's correct.

21 Q. And that was the product of an airline merger, was it  
22 not?

23 A. Yes.

24 Q. All right. And were you appointed to any special  
25 committees or offices thereafter?

1 A. While I was serving in both those capacities, president  
2 Henry Duffy at the time, of ALPA, appointed me to several  
3 things including restructuring committee, a financial  
4 restructuring committee, to review the entire restructuring  
5 of the finances of the association. And there probably were  
6 some other smaller committees but I remember that one most  
7 specifically.

8 Q. All right. And then were you elected to another  
9 national office?

10 A. In October of 1990 I was elected as first vice president  
11 of the entire association.

12 Q. And how long is the term of office for first vice  
13 president?

14 A. They are four-year terms.

15 Q. And how many of those did you serve, Mr. Woerth?

16 A. I served two terms, I served eight years as first vice  
17 president.

18 THE COURT: Is that a full time job?

19 THE WITNESS: Yes, it is.

20 THE COURT: You are not flying then when you are  
21 first vice president, other than for fun, you are not flying  
22 for --

23 THE WITNESS: That is a pretty accurate  
24 characterization. I maintain minimal currency for fun but my  
25 full time job was with the union in Washington, D.C.

1 Q. You kept a valid pilot's license by doing three bounces  
2 a quarter?

3 A. That is pretty much it.

4 Q. But were devoting most of your time to union work?

5 A. Yes.

6 Q. When were you elected the president of the union?

7 A. I was elected president in October of 1998.

8 Q. And that was for a four-year term?

9 A. Yes.

10 Q. And how many terms did you serve there?

11 A. I served two terms as president ending December 31,  
12 2006.

13 Q. So was this a continuous period of 16 years you were  
14 first vice president and then president of the union?

15 A. That's correct.

16 Q. All right. And the last term as president expired  
17 when?

18 A. December 31, 2006.

19 Q. What did you do then?

20 A. I returned to Northwest Airlines, worked briefly in the  
21 government affairs department, and then simultaneously I was  
22 starting, I co founded an internet advertising company with  
23 two other partners.

24 Q. And would you remind us of your retirement date from  
25 Northwest Airlines, please?

1 A. March of 2008. -- no, February 28, 2008.

2 THE COURT: From 2006 to 2008 you weren't flying  
3 for Northwest.

4 THE WITNESS: No.

5 Q. And this internet firm that you helped set up, is that  
6 still in business?

7 A. Yes, it is.

8 Q. Are you still involved in the ownership or operation of  
9 that?

10 A. I am involved in the ownership, but since my  
11 presidential appointment, I had to leave the company.

12 Q. Tell us about that. What are you doing now, Mr.  
13 Woerth?

14 A. Right now I am a United States Ambassador to the ICAO,  
15 International Civil Aviation Organization. ICAO is a united  
16 Nations type organization. I represent the United States to  
17 that body.

18 Q. Is that based in Montreal?

19 A. Its headquarters is in Montreal, Canada, yes.

20 Q. That is why you are residing there?

21 A. That is why I reside there now.

22 Q. Would you explain to the jury, please, what the  
23 functions of ICAO are?

24 A. Yes. ICAO was formed in 1944, even prior to the United  
25 Nations. Its purpose is to set up international standards

1 with everything you could possibly conceive with civil  
2 aviation, all standards for aircraft, airports, air traffic  
3 control systems, manufacturing, carbon emissions, aviation  
4 security.

5 If it says civil aviation, this body is the  
6 controlling agency to set up standards so we can have a  
7 global system so you can fly any where in the world and the  
8 pilots and controller's and airlines can expect pretty much  
9 the same thing.

10 So 190 nations belong, or have signed the  
11 convention. There is a special council, you could think of  
12 the United Nations security council, much like the same  
13 thing. I serve on that council as well and represent the  
14 United States there, which does most of the business for that  
15 organization.

16 Q. All right. And the United States is one of the 36  
17 members of the council?

18 A. That's correct.

19 Q. Can you give us an example of ICAO's work in an area  
20 that people would understand?

21 A. Our most recent general assembly in October, we for the  
22 first time set up international aviation security standards  
23 that are now binding on all nations with the type of security  
24 they have to provide. It took a long time to get the rest of  
25 the world to agree to this. A lot of the world thought it

1 was just the United States problem or Israel's problem and  
2 Africa and South America and Asia didn't need to have the  
3 same security standards we have, but we got them to agree.  
4 Now we can audit them and enforce security around the world,  
5 like we do in the United States.

6 Q. What are the responsibilities of the United States  
7 ambassador to the International Civil Aviation Organization?

8 A. The organization is the democracy wherever nation has  
9 just one vote. We supply about 25 percent of the operating  
10 captain to run the organization, like a lot of things in this  
11 world, but we have one vote.

12 So my job is to represent the United States  
13 interest for our jobs, for our manufacturers, for airlines,  
14 for our government's position from the Department of State  
15 and transportation to, to ensure that the United States goals  
16 are met in aviation safety and security, and with the  
17 environment.

18 Q. And what is your relationship with the other United  
19 States cabinet offices, for example, in performing your job?

20 A. Well, I work and coordinate with them, but I do work  
21 directly for the president. Ambassadors really report only  
22 directly to him.

23 Actually, I have a letter from the President that  
24 we all get to remind other cabinet members that I work for  
25 him, and not them. There is often competing interests from

1 the Department of State, Department of Transportation,  
2 secretary of that Politan notice from security may have a  
3 particular view on an issue.

4 But there is only one government, can only be one  
5 vote, and one decision, and it is to remind them that I  
6 report to the president, not to them.

7 Q. Now, are the representatives from all of these 190  
8 nations to the ICAO hold ambassadorial rank?

9 A. No. Of the 36 members on the council who are there all  
10 the time, the assembly, 190 nations only meets once every  
11 three years for a couple of weeks.

12 For the most part, the 36 nations on the council  
13 run the place. Of the 36 representatives from other nations,  
14 I think there is only only ten other representatives who have  
15 the rank of ambassador granted by their government.

16 Q. How did it come about that you were entrusted with this  
17 position, sir?

18 A. I was 0, well, I was nominated by President Obama in  
19 July of last year. I had a Senate confirmation hearing from  
20 the Senate Foreign Relations Committee in August of last  
21 year, and in September the full Senate voted on my  
22 confirmation.

23 Q. Thank you. Now, turning your attention to the year  
24 2000, and 2001, you were then serving as the president of the  
25 Air Line Pilots Association, correct?

1 A. Yes.

2 Q. And how did you first learn of the proposed acquisition  
3 of TWA's assets by American Airlines?

4 A. The first two calls I remember, I can't remember the  
5 exact sequence from Captain Bob Pastore, who was the MEC  
6 chairman of TWA, and from the CEO and president of the  
7 company, of TWA, Bill Compton.

8 Q. Did you know Bill Compton before you received this call?

9 A. Yes, I did.

10 Q. How did you know Mr. Compton?

11 A. Mr. Compton and I were more or less contemporaries  
12 within the Air Line Pilots Association, beginning in the late  
13 eighties, our career paths were fairly parallel. I became  
14 chairman of the Northwest pilots and later a board member of  
15 the airline board of directors, of an airline, not of the  
16 union.

17 Bill Compton became chairman of TWA pilots, and  
18 also a member of the board of directors of TWA. We were, we  
19 kind of parallel tracked. We served together on an executive  
20 board of ALPA, and became friends, besides acquaintances,  
21 during that process.

22 Q. How could you describe your working relationship with  
23 Mr. Compton at that time?

24 A. Very professional.

25 Q. All right. And did you have conversations with him from



1 time to time during that period?

2 A. Yes, after he became president and CEO of the company  
3 and I was president of the union we would engage like I did  
4 with a lot of the airline CEOs.

5 Q. And he called you to say that TWA's assets were being  
6 acquired by American Airlines?

7 A. Yes, in January. By this time I think I might have  
8 already heard it through the media but he did call me right  
9 away.

10 THE COURT: 2001, January, 2001.

11 THE WITNESS: That's correct, sir.

12 Q. That would be January 9, 2001, approximately. What was  
13 your reaction to that news, Mr. Woerth?

14 A. Well, first of all I was simply elated for the employees  
15 of TWA, which I was very concerned were facing a dire,  
16 probably a liquidation, so I was just thrilled for them. And  
17 I was probably surprised that American did that. I didn't,  
18 that wasn't what I was expecting to happen but I was thrilled  
19 for them and kind of surprised at the same time and  
20 congratulated Bill that he must be a tremendous CEO to be  
21 able to rescue TWA and get it successfully transferred to a  
22 successful carrier like American, so I was very happy, was my  
23 most important emotion.

24 Q. And why were you surprised?

25 A. I had thought that, sadly, that the great airline of

1 Trans World, who had been an industry leader for decades, had  
2 two previous bankruptcies and endured Howard Hughes, Carl  
3 Icahn, leveraged buyouts. Their assets had been stripped.  
4 Their crown jewel of Europe had been sold to American  
5 earlier. They labored under a very onerous agreement from  
6 Mr. Icahn called the Karabu agreement that stripped further  
7 revenue from the airline.

8 I had felt that they had been surrounded and  
9 weakened as a competitive carrier, to a very large degree,  
10 and I actually thought they were so out of cash, frankly, I  
11 didn't think anybody would actually purchase TWA at all. I  
12 thought if it got sold it would be in pieces, like Eastern  
13 Airlines. I feared that very much.

14 Q. And what was that information based upon, that you just  
15 recited?

16 A. Well, in November of the previous year, that is November  
17 of 2000, Mr. Compton, in his office as CEO, had called me for  
18 my assistance in helping arrange meetings with Northwest, not  
19 just the CEO but also their principal shareholders, Al  
20 Checche and Gary Wilson.

21 Q. Why would Mr. Compton call to you help with that?

22 MR. JACOBSON: I am going to object to asking for  
23 Mr. Compton's inner thoughts, just what this witness  
24 experienced.

25 THE COURT: I will sustain the objection.

1 Q. Would you just tell us what Mr. Compton said to you in  
2 this telephone call of November of 2000?

3 A. He told me how dire the situation was at TWA, that they  
4 were running out of cash. He was unable to secure additional  
5 credit in any form. He was actively knocking on every  
6 airline door he could to try to find somebody to acquire  
7 TWA's assets, and of course save the jobs of the employees.  
8 He wasn't having much luck and he asked for my help in  
9 getting a meeting with Northwest.

10 Q. And what did you say in response to Mr. Compton's  
11 comments?

12 A. I told him of course I would help in that regard and  
13 wished him every luck. I wanted to add he also warned me in  
14 that conversation that, he was mortified but he that he was  
15 probably not going to be able to make pension contributions  
16 any longer. They were so far out of cash beginning in  
17 December so he wanted to give me that heads up, to tell me in  
18 advance that was probably going to happen.

19 Q. And did he say he was mortified?

20 A. Yes. He was mortified.

21 Q. And did you learn later that TWA did fail to make the  
22 required pension contributions?

23 A. I did learn that later, yes.

24 Q. And what did you do with respect to his request with  
25 regard to a possible transaction between Northwest Airlines

1 and TWA?

2 A. I think I immediately hung up the phone and called John  
3 Dasberg, who was president of Northwest, and asked him to  
4 help arrange a meeting, but more importantly help ensure that  
5 if possible to get Al Checche and Gary Wilson, the TWA  
6 largest shareholders, which would be very important to any  
7 decision to also be at the meeting so Mr. Compton could give  
8 the full pitch to the most important members of the board.

9 Q. And did you letter later learn that such a meeting was  
10 held?

11 A. Yes.

12 Q. What were the results of that meeting?

13 A. I heard, I am not sure who all the meetings participants  
14 were. I do know Mr. Dasberg attended and that they had  
15 decided there wasn't a transaction possible.

16 Q. All right. So the possible deal between Northwest and  
17 TWA led nowhere. But you mentioned another conversation that  
18 you learned about the transaction between American and TWA  
19 from Bob Pastore, the MEC chairman, at TWA. Was that also on  
20 or about the 9th of January, 2001?

21 A. Yes.

22 Q. Would you describe for the jury, please, what Mr. Pastor  
23 said to you and what you said to him in that conversation,  
24 please?

25 A. Well, he relayed what, again, I just had been -- what

1 had been reportedd to me. He was happy and he was excited.  
2 He was also, he also knew we had a lot of work ahead of us,  
3 all of us, to ensure that transaction actually closed. He  
4 requested my assistance in, of course he would be given an  
5 audience of the executive council meeting which was going to  
6 be held in a couple weeks, to make a presentation to the  
7 executive council which of course obviously he was going to  
8 be granted, and it was a short conversation. I just  
9 congratulated him and let's get this completely done, and we  
10 both felt pretty good about it.

11 Q. Did either Mr. Pastor or Mr. Compton describe to you on  
12 or about the 9th of January, 2001, any of the terms of the  
13 proposed asset purchase agreement?

14 A. In rough in rough outline form, the most important  
15 aspect was clear that, it was more a contingent offer in this  
16 regard, the contingency was that all of the unions of TWA  
17 would have to relinquish their job security or their labor  
18 protective provisions for the transaction to go forward.

19 THE COURT: Is that what we call the scope rights?

20 THE WITNESS: That's correct, sir.

21 Q. Refer to the scope or labor protective provisions, those  
22 are interchangeable terms in this context?

23 A. They are, yes.

24 Q. What is the essential aspect of this provision that is  
25 of interest to the pilots in a merger?

1 A. The most important, there are two provisions: One, that  
2 the employees would go with the transaction, but the other  
3 key element was we always tried to ensure that there would be  
4 a right to an arbitration process, if you couldn't reach an  
5 agreement on seniority integration, there would be some kind  
6 of third-party arbitration. That was a key element.

7 Q. How would you evaluate this arbitration right?

8 A. Well, we seek it. Negotiating seniority is probably the  
9 hardest thing that any employee groups do. Seniority is  
10 forever. Contracts come and go. And people, it is a  
11 difficult decision to make, and very often people do not like  
12 to make the decisions and have a third-party decide it. It  
13 is a very difficult decision to make.

14 Q. So that is a way that the pilots involved can transfer  
15 the ultimate decision to a third party?

16 A. Yes.

17 Q. All right. And are there sometimes surprises when there  
18 are arbitrations?

19 A. I would say there is always surprises, and very rarely  
20 are the parties satisfied. Either side. Both sides usually  
21 feel they lost, which is remarkable, but that is how it  
22 normally happens.

23 Q. All right. We will come back to that a little later.

24 And did you anticipate that this provision was  
25 going to be a stumbling block in the acquisition?

1 A. I knew that it would be, the decision would have to be  
2 made but I always viewed it that I felt very certain that  
3 both APA and Don Carty, the CEO of American Airlines, this  
4 was not a ploy, it wasn't, well, maybe we will forget about  
5 it. This was absolute irrevocable obstacle. You either, the  
6 employees either agreed to it or they would walk away and not  
7 post the transaction, I was completely convinced of that.

8 Q. Why were you convinced of that?

9 A. The history probably beginning in 1997 with American  
10 Airlines, how they got that provision into their contract  
11 following a --

12 THE COURT: You have to explain what provision you  
13 are talking about in the APA contract.

14 THE WITNESS: In the APA contract, in 1997 is when  
15 Allied Pilots got that provision in their contract, that  
16 the --

17 THE COURT: What provision?

18 A. The provision on any merger or seniority integration  
19 that they could staple the other pilots to the bottom of  
20 their list, if American was the acquiring character.

21 Q. Okay. So the American pilots negotiated that in 1997?

22 A. Correct.

23 Q. And then what happened?

24 A. In 19 -- later, in February, 1999, American Airlines  
25 acquired Reno Airlines.

1 THE COURT: Reno, R E N O?

2 THE WITNESS: Yes, sir.

3 Q. Were the pilots of Reno represented by the Air Line  
4 Pilots Association?

5 A. Yes.

6 THE COURT: This is an ALPA-to-ALPA merger.

7 THE WITNESS: No. This was American Airlines, APA,  
8 American Airlines acquired Reno Airlines in 1999.

9 THE COURT: Reno was represented by ALPA?

10 A. Yes, sir.

11 THE COURT: APA represented American in 1999.

12 THE WITNESS: Yes, sir.

13 Q. What happened then?

14 A. What happened is that almost immediately, this was near  
15 Presidents Weekend, the pilots of American Airlines  
16 represented by Allied, engage in an illegal job action, a  
17 wildcat strike, if you will, in protest. They didn't want  
18 the merger. They hadn't been told about it in advance. And  
19 that was their reaction. That resulted -- that strike was  
20 ended by the courts, and the Allied Pilots were ultimately  
21 fined 45 million dollars for that illegal strike.

22 The other outcome was it really changed the  
23 dynamics in a relationship between Don Carty, the CEO of the  
24 airline and its union. This was a crisis moment. They had  
25 had a very bad experience, and Mr. Carty had actually flew in



1 from Dallas in February of 1999 to meet with me. Even prior  
2 to the judge's decision. And it is about a two-hour meeting,  
3 kind of venting, first he was angry at the pilots.

4 Q. Where did this meeting take place?

5 THE COURT: But you didn't represent those, ALPA  
6 didn't represent the American pilots who did the job action.

7 THE WITNESS: No, we did not. He flew, we had  
8 known each other. He was a member of the Air Transport  
9 Board, all the airlines were in the trade association. We  
10 testified together in Congress many times. We knew each  
11 other on that basis. He was coming to Washington, and I  
12 think he just wanted some counsel counsel about how to get  
13 out of this mess. It was more, I wasn't there as a union  
14 representative or a representative of the pilots. He kind of  
15 was seeking my counsel and advice, what do I do now.

16 Q. Where did the meeting take place, Mr. Woerth?

17 A. It took place in my office there, Air Line Pilots  
18 Association president's office in Washington, DC.

19 Q. 1625 Massachusetts Avenue?

20 A. Yes.

21 Q. Who else was present during this conversation?

22 A. I believe Will Riss, who is the vice president of  
23 government affairs for American Airlines, accompanied Mr.  
24 Carty.

25 Q. All right. And tell us what Mr. Carty said to you at

1 that time?

2 A. Mr. Carty, we spent some time on his anger at Allied and  
3 the fine was going to have to be imposed, onerous, whatever  
4 it was, he couldn't tolerate illegal strikes. At the same  
5 time he knew he had to rebuild a relationship with his most  
6 important union, the pilots, and he was really kind of  
7 thinking about how do I go forward.

8 What, I mean what lessons did I take from this  
9 debacle, and I advised him the first thing, he is always  
10 going to have to keep his pilots informed with  
11 confidentiality agreements or whatever. You can't just  
12 spring the news of a merger of any kind on them, in the  
13 media. That was a big mistake. They reacted badly, but he  
14 should learn to keep them better informed.

15 THE COURT: American had 11,000 pilots, something  
16 like that. Reno could not have had that many?

17 THE WITNESS: It had less than 300, sir.

18 THE COURT: Yeah. I mean, what was it that got the  
19 American pilots so exercised?

20 THE WITNESS: Your Honor --

21 THE COURT: It has got to be more than somebody  
22 sprung a surprise on them.

23 A. I honestly agree with you. I have no rational  
24 explanation for the tremendous over-reaction to this  
25 transaction. I cannot explain it. I can't countenance it.

1 THE COURT: How were the pilots --

2 A. They had some negotiation, it ended very quickly. I  
3 don't know --

4 THE COURT: Negotiation between who and who.

5 A. Reno Pilots and APA.

6 Q. Do you know whether they were all stapled to the bottom  
7 of the list?

8 A. I believe that is what happened, but it all happened  
9 very quickly afterwards.

10 Q. And then I think we got on the record there was this  
11 contempt fine for 45 million dollars.

12 A. Yes.

13 Q. That resulted from the slow-down?

14 A. Yes.

15 Q. How did that relate to the provision of the asset  
16 purchase agreement that you had referred to a few minutes  
17 ago?

18 A. Well, the end, that was what they thought was an  
19 important provision or contract, and they were very intent on  
20 enforcing that, for some reason, they had viewed that as a  
21 high level within.

22 Q. When you say they you are referring to the pilots?

23 A. The American pilots thought that was very important to  
24 their pilots to be able to absolutely control acquisition of  
25 assets or a merger.

1 Q. When you learned of this provision, did you also learn  
2 of the reasons for it from either Mr. Compton, Mr. Pastor, or  
3 someone else?

4 A. You are talking about the provision of the acquisition?

5 Q. The provision in the asset purchase agreement that  
6 required removal of the union's scope or LLPs?

7 A. I heard it from, first from Mr. Compton, Mr. Pastor  
8 mentioned it briefly. I also had a conversation later,  
9 several days later, with Mr. Carty, who requested my  
10 assistance and hoped this went well and he reminded me of  
11 this provision that was there.

12 Q. All right. When you learned of the transaction, what  
13 steps did you take to prepare for the associations  
14 participation in this transaction?

15 A. First of all, we made sure our merger -- rather,  
16 bankruptcy counsel, because there was going to be an  
17 immediate bankruptcy, that was for Cohen, Weiss and Simon and  
18 Richard Seltzer, prepared the legal team and instructed them  
19 to work with Captain Pastore and give him everything he  
20 needed, prepared the executive council for their meeting. I  
21 knew that TWA pilots would be coming in with a long list of  
22 immediate consultants, outside consultants, prepared that  
23 agenda and prepared to support them in all their requests.

24 Q. Mr. Pastor had warned you about that in previous  
25 conversation?

1 A. Oh, yeah. But I assumed that was going to happen. He  
2 didn't have to warn me. I knew it was going to happen.

3 Q. And in addition to the arrangements for the request for  
4 consultants to the executive council and arranging for  
5 special bankruptcy counsel, what else did you do?

6 A. I reached out to then President Darrah, I wanted to have  
7 a conversation with him. I wanted at some point to be able  
8 to address the American pilots and ask, do my -- that they  
9 would do much better, that they would not staple the American  
10 -- the TWA pilots to their list, that we would have a process  
11 that would be fair, and, but mostly just preparing the  
12 council, my duties at ALPA and reaching out to Mr. Carty and  
13 told him he wanted to make sure the transaction flows.

14 Q. Did you talk to Mr. Carty at this time?

15 A. I talked to himself times in the month of January of  
16 that year.

17 Q. Tell us what Mr. Carty said to you in those telephone  
18 conversations and what you said back to him, please?

19 A. He was emphasizing that he was, that he hoped it was  
20 going to close, that he knew my opinion on stapling pilots to  
21 the bottom. I opposed that. It was not ALPA's merger  
22 policy.

23 He just reiterated that I needed to know that if  
24 the pilots' joy at being acquired went away and was being  
25 replaced by a feeling that they could somehow have the

1 transaction, that American would buy them and still permit an  
2 arbitration, that I should disabuse myself them of the notion  
3 that that was absolutely not going to happen.

4 Q. That is what Mr. Carty told you?

5 A. Mr. Carty told me that, and this was again, he learned  
6 his lesson, a bloody lesson, in the Reno debacle, that even  
7 if American pilots are unreasonable in this regard, that is  
8 what they were, and he was not prepared to destroy further  
9 his relationship with APA, and so this was the demand he was  
10 willing to countenance, either the scope was waived or no  
11 transaction. He was very emphatic.

12 Q. And you said you had several conversations with, was  
13 this repeated in the other conversations you had as well?

14 A. Probably only mentioned. It was mostly the first  
15 conversation, to make sure there was no doubt in my mind that  
16 the transaction could only close under one set of  
17 circumstances.

18 Q. Can you tell us anything about your conversation with  
19 Mr. Darrah, the president of the Allied Pilots Association?

20 A. They were also briefed. He was fairly new to his  
21 position. I think he had just gotten the job in November,  
22 and he said he worked for the board of directors and they  
23 had a policy, and his duty was to the board, but he would  
24 try to work with me, but he was fairly noncommittal at that  
25 time.

1 Q. All right. You mentioned arrangements for a bankruptcy  
2 counsel for the bankruptcy procedure. Was the, the  
3 bankruptcy, was your understanding was part of the  
4 transaction with American Airlines?

5 A. Oh, absolutely.

6 Q. And it was TWA that was in bankruptcy, not American,  
7 though?

8 A. Of course.

9 Q. And who were the bankruptcy specialists that you helped  
10 to arrange for the TWA pilots in this case?

11 A. Well, the principle firm was through Cohen, Weiss and  
12 Simon of New York but the principal counsel was Richard  
13 Seltzer had done many bankruptcies before.

14 Q. Can you tell us about that law firm and Mr. Seltzer and  
15 their experience in this areas?

16 A. Cohen, Weiss and Simon had been our general counsel  
17 since our union's founding in the thirties. We had used in  
18 bankruptcy for other unions, but our union sadly had a lot of  
19 bankruptcy experience with Continental, Easter and other  
20 airlines, so he was quite experienced in bankruptcy.

21 Q. And are you aware of Mr. Seltzer's prior experience in  
22 the area?

23 A. I mostly, during my time as president, I learned a lot  
24 about bankruptcy myself post 9-11, but he had considerable  
25 experience prior to the TWA bankruptcy.

1 Q. All right. I have got a package of four exhibits that I  
2 would like to have marked, and, marked for identification,  
3 and introduced?

4 THE COURT: They are?

5 MR. KATZ: They are 395.

6 THE COURT: D, P, J?

7 MR. KATZ: D 395. D 396, D 397, and P 137. I have  
8 got copies of those in paper that I would like to distribute  
9 at this time.

10 THE COURT: 395, 396 and 397 are already marked for  
11 identification and not introduced. And P-137, that is being  
12 marked for identification.

13 Q. Can you identify these documents, Mr. Woerth?

14 A. Yes, I can.

15 Q. Would you tell us what they are, please?

16 A. These are the updates and briefings I was receiving from  
17 Cohen, Weiss and Simon and from Richard Seltzer as to the  
18 progress of the bankruptcy proceedings with TWA.

19 Q. And did you read them at the time?

20 A. Yes, I did.

21 MR. KATZ: I would ask that they be received in  
22 evidence, your Honor.

23 MR. JACOBSON: No objection, your Honor.

24 THE COURT: Okay. D 395, 396, 397 in evidence.

25 And P-137 in evidence.



1 MR. KATZ: Thank you, your Honor.

2 Q. Would you tell us, please, what you learned from reading  
3 these documents?

4 A. Well, I what I learned was the bankruptcy was  
5 proceeding. Maybe a little more rapidly than some, but the  
6 most important thing was to get the desperately needed cash,  
7 that the debtor in possession financing, that is document  
8 395, in place.

9 Q. And 395, maybe we could put that up on the screen now.  
10 Look at the first substantive paragraph. If you could blow  
11 that up, Brian.

12 Is this the debtor in possession financing that you  
13 referred to?

14 A. Yes.

15 Q. So was this money that was going from American Airlines  
16 to TWA?

17 A. Yes.

18 Q. Do you know what priority this funding received?

19 ?MR. JACOBSON: Objection, your Honor. He is asking  
20 questions of bankruptcy law, I think.

21 MR. KATZ: It is just a general background question  
22 if the witness knows?

23 THE COURT: Repeat the question.

24 Q. What priority does the debtor in possession receives in  
25 connection with the bankruptcy?

1 THE COURT: I will allow that if he knows.

2 A. The term was actually a description of what happened.  
3 Whoever does the financing now is in possession and in  
4 control of this process.

5 THE COURT: Have you ever heard the term super  
6 priority?

7 A. I have heard of the term but I am not going to try to be  
8 a lawyer.

9 Q. Let's not try to make Mr. Woerth into a lawyer then.  
10 That would be a shame.

11 THE COURT: Okay.

12 Q. And then in 397, Mr. Woerth, there is a reference, that  
13 is the March 16. That deals with the Karabu agreement that  
14 you mentioned earlier?

15 A. Yes.

16 Q. Do you know what was going on there?

17 A. Yes. That is left over from Carl Icahn to basically  
18 skim money from TWA and American was rightly trying to get  
19 rid of that provision.

20 Q. And then in that same document, turning to the second  
21 page, there is a reference to the Section 1113 motion. Would  
22 you explain what was going on there?

23 A. An 1113 motion is a vehicle if it is successful where  
24 the contracts can basically be eliminated, the contract  
25 provisions of the union can be eliminated by the court.

1 Q. And if you could blow up the indented portion of that  
2 paragraph. It describes the motion itself, failure to obtain  
3 waivers would allow American to walk away from the  
4 transaction, making TWA's liquidation a virtual certainty.

5 What was your reaction when you read this part of  
6 Mr. Seltzer's report.

7 A. Well, there was information I already new and believed  
8 to be true, that this would happen.

9 Q. That what would happen?

10 A. If it, failures did not occur, failure, American would  
11 walk away from the transaction and TWA would be liquidated.

12 Q. Suppose somehow ALPA were able to defeat the 1113  
13 motion, what was your understanding of what would happen at  
14 that point?

15 A. Well, it had the same result. Any time the provisions  
16 remained, American would walk away. There was no way to  
17 escape objection -- the provisions either, either is left or  
18 TWA liquidated. That is how I saw the world.

19 Q. And did you have discussions with representatives of the  
20 TWA pilots during the same period of time?

21 A. Very limited, after a few with Bob Pastore, but very  
22 limited. They mastered their -- they kept in contact with  
23 their own council, but I always told them that I assumed that  
24 they were going to do this, that they would not risk of jobs  
25 of all their pilots and all the rest of the employees by not

1 waiving these provisions.

2 Q. Well, did Captain Pastore describe for you what the  
3 goals and objectives of the TWA pilots were?

4 MR. JACOBSON: I am going to object to this one,  
5 your Honor. This is hearsay. Captain Pastore is an  
6 executive of ALPA. And the master executive chairman.

7 THE COURT: Say the question again.

8 MR. KATZ: Can you describe what Mr. Pastor told  
9 you about the goals and objections of the TWA pilots.

10 THE COURT: Did you have such a conversation?

11 THE WITNESS: Yes.

12 THE COURT: When?

13 THE WITNESS: Well, the first conversation, the  
14 longest one was at our executive council meeting in January,  
15 and the last week of January of 2009 when he asked for  
16 additional help, and he also asked me to insure that other  
17 airlines did not interfere in the bankruptcy process, try to  
18 stopped the transaction with DOT, he was concerned if any of  
19 that happened, TWA might liquidate, and his goal was first to  
20 survive, and he really didn't, he was trying to fight for the  
21 survival of the TWA pilots.

22 THE COURT: Now, what is question, what do you  
23 consider unanswered?

24 MR. KATZ: I think he has answered my question.

25 THE COURT: All right. Go ahead. Next.

1 Q. Was there something going on in the bankruptcy case in  
2 terms of other airlines, as you discussed, that was prompting  
3 Captain Pastore's comments to the ALPA executive council?

4 A. At the time he feared one or more airlines would object  
5 to the transaction or want spin office, if the Department of  
6 Justice or DOT was going to approve it and in the end I think  
7 Continental did file some complaint that was later rejected  
8 but I think Continental did try to intervene.

9 Q. Did you agree with that priority of preserving the jobs  
10 for the TWA pilots?

11 A. Absolutely.

12 Q. Was there something about your experience as an airline  
13 pilot or an ALPA representative that led you to conclude that  
14 that was a sound goal?

15 A. Well, I had lost my job previously at Braniff in 1982,  
16 but had witnessed several airlines completely liquidate, not  
17 just Eastern, but Midway Airlines, there was a, the thing was  
18 most clear in my mind is a transaction that almost happened  
19 but did not, Northwest almost bought Midway Airlines and the  
20 last second withdrew their offer and changed their mind and  
21 48 hours later Midway liquidated.

22 Q. What did you learn from that experience?

23 A. What I learned was that just because there is a proposal  
24 for a deal doesn't mean the deal is going to close, and  
25 unknown events happen, board of directors change their mind,

1 and until a deal is completely done, and you are completely  
2 absolutely finished with everything, and are under contract,  
3 you are at risk, extreme risk.

4 Q. And vis a vis the TWA pilots, how did that experience  
5 relate?

6 A. Well, I was concerned that if the transaction did not  
7 close, I was convinced American would walk away. They would  
8 not follow through with an asset acquisition, if the contract  
9 was not waived. And I continued to have fears after that,  
10 that even after all in occurred, some unknown event could  
11 happen where the American Airlines board of directors might  
12 have changed their mind about their decision to buy TWA. I  
13 was always worried about that.

14 Q. When you say after that, what are you referring to,  
15 after when?

16 A. After the April final closing of the asset acquisition.

17 Q. On April 10?

18 A. Yes.

19 Q. And you are still concerned about the survival of the  
20 TWA pilots jobs?

21 A. Yes.

22 Q. All right. Could we turn to exhibit D 13, which is in  
23 evidence, I believe.

24 THE COURT: I am sorry, to?

25 MR. KATZ: D 13 in evidence.

1 Q. This is the resolution of April 2, 2001, adopted by the  
2 TWA MEC to accept the package of agreements that American and  
3 TWA put on the table. You are familiar with that?

4 THE COURT: Don't have D 13 in evidence.

5 MR. KATZ: Let me if ask if there is an objection  
6 to it. I believe it is in the minutes which are in evidence.

7 THE COURT: Maybe.

8 MR. KATZ: As a separate exhibit, you don't have a  
9 problem.

10 MR. JACOBSON: No objection to the separate exhibit.

11 THE COURT: Okay. Then I am going to mark D 13 in  
12 evidence.

13 Q. Now we can put that up. And the third whereas, can you  
14 blow that up, please?

15 We have already talked about the assistance you  
16 provided to the TWA pilots in retaining expert bankruptcy  
17 counsel for the 1113 motion. Mr. Seltzer. This whereas  
18 clause remind you of any other things that you and ALPA did  
19 to assist the TWA pilots in connection with this  
20 transaction?

21 MR. JACOBSON: Objection, your Honor, to the leading  
22 form of the question.

23 THE COURT: Rephrase it.

24 Q. Can you tell us, Mr. Woerth, whether in addition to Mr.  
25 Seltzer there are other things, if any, that you and the

1 association did to assist the TWA pilots?

2 A. Well, this is, this list of counsel, we hired  
3 additional, we had bankruptcy counsel, but we also wanted  
4 investment bankers, Glanzer is there, I think there is a  
5 communications specialist firm. I forgot the name of the  
6 firm. There is at least two more consulting firms that I  
7 think they wanted hired and I think we hired, everyone they  
8 asked for I think we allowed them to be hired. I don't think  
9 we turned them down for anything.

10 Q. So you mentioned Mr. Glanzer?

11 A. Yes.

12 Q. He is an investment banker?

13 A. Investment banker.

14 Q. Communications firm. That was retained at the request  
15 of the TWA MEC?

16 A. Yes.

17 Q. You mentioned, who else did you mention?

18 A. Besides, well, the investment bankers, we had our own  
19 in-house counsel, and there is an additional person that came  
20 on later that they wanted to hire, I don't even remember his  
21 name.

22 Q. All right. And Mr. Babbitt is mentioned.

23 A. Yes.

24 Q. Would you remind the jury who Mr. Babbitt is or was at  
25 the time?



1 A. Mr., Captain Babbitt was the former president of the Air  
2 Line Pilots Association. After he retired he set up his own  
3 consulting firm called Eclat and he was also on some boards  
4 in Washington Metropolitan airport board. He was an  
5 influntial player in Washington.

6 Q. E C L A T is Eclat?

7 A. Yes, sir.

8 Q. And do you know what he is doing now?

9 A. He is the FAA administrator of the United States.

10 Q. So he is the top aviation safety official in the  
11 country?

12 A. That's correct.

13 Q. And how did it come about that Mr. Babbitt was advising  
14 the TWA pilot in this connection, do you know?

15 A. I do not know. I know they requested his, I think Bob  
16 Pastore reached out to him, there may have been somebody  
17 else. But I was happy Randy was willing to agree to help  
18 them.

19 Q. So the MEC asked you for permission to retain his  
20 services as adviser?

21 A. Well, the request comes to me, but all outside counsel,  
22 every time any outside consultants are hired, it requires  
23 executive council to approve them. Sometimes they don't, but  
24 in TWA's case, they approved every one that they asked for.

25 Q. All right. Merger counsel, was there a special lawyer

1 for seniority integration issues?

2 A. Yes. Roland Wilder was a merger counsel.

3 Q. Do you know who Steve Tumblin is?

4 A. I know Steve Tumblin.

5 Q. Would you tell us who he is?

6 A. He is an attorney, he lives in Salt Lake City. He had  
7 been adviser to TWA, I think even briefly served as a board  
8 of directors member.

9 THE COURT: A union representative?

10 A. A union representative, yes, sir, on the board of  
11 directors of TWA.

12 Q. Did that come about as a result of action by the TWA MEC  
13 or by ALPA or in some other manner?

14 A. I think that was the TWA MEC had the right and did  
15 choose Steve Tumblin to be their board member at take time.

16 Q. So did they also ask for Mr. Tumblin's services and  
17 receive permission from you and ALPA to receive those  
18 services?

19 A. Yes, they did.

20 Q. Let me ask you to digress for a moment. We take we can  
21 take that down. And go back to the period before the  
22 announcement of the acquisition of assets in the year 2000,  
23 please.

24 And now I would like to focus for a minute on the Allied  
25 Pilots Association.

1 Did there come a time when you had the opportunity  
2 to address the board of directors of the Allied Pilots  
3 Association in the year 2000.

4 THE COURT: That is American's union.

5 MR. KATZ: Right.

6 A. Yes.

7 Q. How did that come about, Mr. Woerth?

8 A. They requested me -- Rich Lavoy was the president.  
9 Brian Mayhew was the vice president. And I had a request of  
10 them at the board of directors, the ALPA board of directors  
11 meeting was concluded in Miami, if they were holding a  
12 meeting, they asked me to come address them.

13 THE COURT: When was this, what is the date of  
14 this?

15 A. I think it was in October 27, is the third week in  
16 October, I believe.

17 Q. That's correct.

18 THE COURT: Of the year 2000?

19 A. 2000.

20 THE COURT: Before the American deal was announced?

21 A. Yes.

22 Q. Right. And at about this time I believe exhibit D 2 is  
23 in evidence already. Can we put that up? No, it is not. I  
24 would likes to show it for identification to the witness  
25 then.

1 Do you recognize this document, Mr. Woerth?

2 A. Yes.

3 Q. Would you tell us what it is, please?

4 A. It is a pilot unity resolution. It is essentially the  
5 resolution of our board of directors on the methodology to be  
6 used in support for trying to organize and merge with  
7 independent pilots associations that were identified in the  
8 resolution.

9 Q. And --

10 THE COURT: Is this being offered?

11 MR. KATZ: Yes, sir.

12 THE COURT: Any objection?

13 MR. JACOBSON: No, your Honor.

14 THE COURT: Okay. D 2 in evidence.

15 MR. KATZ: Thank you.

16 THE COURT: ALPA wanted to have APA become part of  
17 its union, didn't they? You wanted to invite some by some  
18 modality, get those 11,000 American pilots to be ALPA  
19 members, didn't you?

20 A. Our mission statement was everyone --

21 THE COURT: You wanted them because they were a big  
22 union, they were a dues paying -- You wanted them to be ALPA  
23 members?

24 A. Of course. They were certified in 1963 and I think  
25 every union president since would hope would to be the

1 president who brought them back into the union, absolutely.

2 Q. Why did you want the American pilots to rejoin the Air  
3 Line Pilots Association?

4 A. My belief was, the mission statement as identified in  
5 the first paragraph, was that we were supposed to try to have  
6 all pilots in our union, and this is how we were founded in  
7 1931, and so as an overall goal, it wasn't just for APA, it  
8 was Continental, Fec Ex, Air Tran, Southwest, it was everyone  
9 was the ultimate goal.

10 THE COURT: Was there any other domestic carrier  
11 larger than American that went a member of ALPA.

12 A. No, they were the largest.

13 THE COURT: American was the largest nonALPA pilot  
14 group in the country?

15 A. Absolutely.

16 Q. Who would benefit from the American pilots rejoining  
17 ALPA, in your view?

18 A. I view American would benefit, but the Air Line Pilots  
19 Association would benefit, and I think all the other pilots  
20 in other companies would benefit by a stronger union with  
21 more political clout, with more economic clout, with better,  
22 what is known as pattern bargaining. There are a number of  
23 times that American I think had harmed as an independent,  
24 they started the B scale, two-tier wage scale which was very  
25 harmful.

1           There is a number of things that American had done.

2       Q.    In that started at American Airlines?

3       A.    Yes.  We thought being part of one year union we could  
4   advance the cause of piloting better with everybody in the  
5   same union.

6           THE COURT:  Two-tier system is when new hires go on  
7   to a lower scale than existing pilot?

8           THE WITNESS:  That's correct.  American started a  
9   system where all new hires were paid 50 percent less, and  
10  originally forever, not just for four or five years, they  
11  agreed to pay new pilots 50 percent pilots less forever.

12       Q.   And did you view that as a bad thing for the piloting  
13  profession?

14       A.   I thought that was cataclysmic for the piloting  
15  profession.

16       Q.   Did it spread from American to other airlines?

17       A.   It spread but nobody agreed to forever.  It got into  
18  five years and ten years.  It took us 20 years to get rid of  
19  that provision that American started.

20       Q.   This was one of the reasons for the goal of having all  
21  pilots in one union?

22       A.   Absolutely.

23       Q.   All right.  And then when this opportunity arose on  
24  October 27, 2000, what did you say in general to the pilots  
25  of American?

1 A. The pilots of American were aware of our resolution.  
2 More importantly they are aware that we had an active  
3 campaign to organize Continental underway, and they are aware  
4 that I had an active plan that when we were finished with  
5 Continental, that we were going to organize Fed Ex next. And  
6 so they are aware of that and they wanted -- they had an  
7 active group, a small group, but active nonetheless,  
8 enthusiastic, who were upset with APA over a number of  
9 things, beginning with their 45 million dollars debacle,  
10 illegal strike that they got fined for.

11 They are embarrassed that in 1997 they tried to go  
12 on strike and the emergency board, President Clinton stopped  
13 them in 13 seconds. They tried to get a contract through  
14 equal to United, but it wasn't equal to United and the pilots  
15 rejected it.

16 There are a number of pilots that American were  
17 very dissatisfied with APA and recent mystery. They are  
18 aware of United historic new contract, a successful pilots  
19 strike by Northwest in 1998 and there was some level of  
20 interest by at least some American pilots, and they had  
21 prodded Captain Lavoy and -- Rich Lavoy and Brian Mayhew to  
22 do the invitations.

23 Q. Those were the officers of the Allied Pilots Association  
24 at that time?

25 A. That's correct, that's correct.

1 Q. How would you compare this appearance at the Allied  
2 Pilots Association board of directors on October 27, 2000, to  
3 the organizing efforts that were ongoing at Continental  
4 airlines amongst the pilots there?

5 A. At this point with Continental, the reason I chose  
6 Continental and Fed Ex is we had a large group including  
7 their board of directors who was already on board and willing  
8 to sign an agreement. We had already, it was going to cost  
9 about a million and a half dollars for each campaign. We had  
10 almost 100 volunteers of ALPA volunteers who would need to go  
11 out on the road and be willing to work for about 120 days, be  
12 in the crew rooms, talk to the pilot, be present on videos,  
13 make campaign literature. It is a like a political campaign  
14 that lasts intensely the last 120 days are very intense but  
15 it takes about a year.

16 Q. These are pilots from other airlines like Northwest and  
17 United?

18 A. Yes.

19 Q. Who go to talk to Continental in the Continental crew  
20 rooms?

21 A. Right. Plus we had Continental pilots, most important  
22 in the effort because their board of directors, the ICE  
23 board, wanted to merge with ALPA and so it is going to be a  
24 joint campaign. And we were going to get, I had enough  
25 contact with Fed Ex that we were going to have a similar



1 experience with Fed Ex because we had a large majority of the  
2 board and their leadership actually wanted to merge. I  
3 wasn't having to convince them.

4 THE COURT: By the way, there is two ways you can  
5 take a nonALPA union, one, can you merge the two unions.

6 THE WITNESS: Yes, sir

7 THE COURT: You don't get cards, you don't do a  
8 campaign there?

9 A. That's correct.

10 THE COURT: Or you can use a card campaign which is  
11 in effect you certify the existing union and then certify  
12 ALPA as the bargaining agent, or have an election which then  
13 certified ALPA.

14 THE WITNESS: Those are the two methodologies, sir.

15 I rejected the card campaign. I was, I thought it  
16 was a terrible strategy, and I was the principal advocate of  
17 this strategy only by merger. If it couldn't co-opt the  
18 leadership, if they didn't agree with you, I didn't want a  
19 hostile takeover.

20 It is either a friendly takeover where both  
21 leadership teams wanted it, or it wasn't worth pursuing it.  
22 It was going to be a costly failed endeavor. So I was  
23 committed to one strategy, a strategy by merger, not by card  
24 count.

25 Q. If we go to the third page of this document, be it

1 further resolved, and numbered paragraphs. I would like to  
2 get to the number 3 item. Proposed merger agreements with  
3 independent pilots associations will be subject to approval  
4 by the executive council and ratification by the executive  
5 board.

6 So did this resolution reflect the preferred method  
7 that you just stated?

8 A. Yes, it did.

9 Q. Is this the method that you employed with the a, that  
10 the association employed, with the Continental pilots?

11 A. Yes.

12 Q. So how did it start, was their action taken by the  
13 governing body of the Continental pilots?

14 A. Eventually it started with my approaching their  
15 leadership, probably in 1999. And it took a lot of months to  
16 develop a bond and a trust that this is something we should  
17 do together, so it is probably six months of spade work, if  
18 you will, trying to nurture a relationship and then got them  
19 very interested to the point I wanted to make sure that the  
20 Airlines Pilot Association would approve the merger, and they  
21 needed the confidence that the entire board of directors  
22 would welcome Continental back. That is really what the  
23 principle focus of the whole reason to have this pilot unity  
24 resolution, it was about Continental, it wasn't about Fed Ex  
25 and it wasn't about American.

1 Q. Did you give the Continental pilots that union, that  
2 they would be welcomed back into the association?

3 A. I did but they wanted the assurance from the entire  
4 board of directors, not just from me. That what is this do.

5 Q. That is D 2, the unity resolution was a reflection of  
6 the desire of the entire Air Line Pilots Association board to  
7 welcome the Continental pilots back?

8 A. Continental was the mission right in front of us and the  
9 obstacle we were trying to clear. We also included everyone  
10 else, because why not? We have a mission statement to  
11 organize everyone, merge everyone, let's list everyone but  
12 the reason we needed this unity resolution was we had stalled  
13 at Continental. Without it we were not going to be able to  
14 get done.

15 Q. Did you say there was a million and a half dollars  
16 budgeted for organizing the Continental pilots?

17 A. Yes.

18 Q. That was to be spent in 2001?

19 A. Spent from the end of 2000, we went right immediately  
20 back to work when this was, resolution was done, and we  
21 concluded the merger in April, Continental pilots voted in  
22 mid April of 2001, and they became official members June 1st,  
23 2001. Then we went straight into the Fed Ex campaign.

24 Q. All right. That was done with cards or with a merger  
25 agreement?

1 A. They were both with merger agreements.

2 Q. In compliance with exhibit D 2?

3 A. Of course.

4 Q. Can you tell the jury, please, what was the budgeted  
5 amount for organizing an American for the year 2001?

6 A. Zero.

7 Q. There was nothing budgeted to organize the American  
8 pilots?

9 A. No.

10 Q. All right. But you did give a speech on October 27,  
11 2000?

12 A. Yes.

13 Q. And as a result of that speech did anything happen?

14 A. Well, actually there was really no follow-up. I give it  
15 my best shot. I was invited to talk by Captain Lavoy, I mean  
16 American leadership. I think at the instigation of a couple  
17 of members of his board of directors who were ALPA  
18 enthusiasts, but nothing ever came of it.

19 Q. Can you describe on a scale of zero to 100, with 100  
20 being the highest, what the level of interest among the  
21 representatives in the American pilots was in rejoining ALPA  
22 in the year 2000 when you went to address them?

23 A. I would assess it at about five percent.

24 Q. How would you compare that to Continental?

25 A. Continental was about 60 to 70 and we had got 98 percent

1 of the membership eventually.

2 Q. By April of 2001?

3 A. Yes.

4 Q. Did you, from time to time, report to the ALPA Executive  
5 Council about the progress that was being made under the  
6 pilot unity resolution, exhibit D 2?

7 A. Yes.

8 Q. I am not sure whether 243 and 44 are in every?

9 THE COURT: D or P.

10 Q. 243 and 244s. They are in evidence. I have copies for  
11 the Court.

12 THE COURT: They are both in evidence.

13 Q. You are familiar with these documents?

14 A. Yes.

15 Q. Are these the minutes from the ALPA executive council  
16 meetings in January and April, 2001, Mr. Woerth?

17 A. Let me read it. Yes.

18 Q. All right. Could we focus on the list of attendees for  
19 the January meeting. Exhibit D 243.

20 MR. KATZ: I am sorry. P-243.

21 MR. KATZ: Your Honor, I misled you. I think P-243  
22 and P-244 are the documents I had in my hand. Are they in  
23 evidence?

24 THE COURT: I don't know. D 243 and, let me check  
25 P 243 and 244.

1 MR. KATZ: I apologize. I ask for these to be  
2 admitted into evidence.

3 MR. PRESS: Your Honor, P 243 and P-244 are in  
4 evidence. They are admitted with Captain Rachsford.

5 MR. KATZ: Fine, thank you, Allen.

6 THE COURT: They were admitted on June 20. 243 and  
7 244, P, are already in evidence.

8 Q. Mr. Woerth, looking at the list of attendees at the  
9 January 23, 2001, ALPA Executive Council meeting, I see the  
10 national officers are there, including you, as the president?

11 A. Yes.

12 Q. And who are all these various executive vice presidents,  
13 sir?

14 A. They are executive vice president David Morrow was from  
15 U S. Airways. Robert Morris is from Delta. Steve Soller is  
16 from Northwest. Kevin Dillon is from United. They had  
17 individual seats, each airline of that size was entitled to  
18 its own seat.

19 Q. Let me ask you this question, Mr. Woerth. Was there  
20 any of these executive vice presidents who had the  
21 responsibility of representing the interests of the TWA  
22 pilots?

23 A. Yes.

24 Q. Who was that?

25 A. That was G Cress Bernard, who was from Alaska.

1 Q. TWA, because it was a smaller airline, was part of a  
2 group represented by Captain Bernard?

3 A. Yes.

4 Q. The first item on the first page are officer reports.  
5 Could we blow up the third paragraph that refers to the pilot  
6 unity campaign.

7 Do you see that language there, Mr. Woerth?

8 A. Yes.

9 Q. What was your report, that is reflected by this entry in  
10 the official minutes of the executive council meeting, can  
11 you remember what you said?

12 A. Well, I don't remember all of what I said because I  
13 think I talked about 20 minutes about Continental which we  
14 were very deep into, and had a lot of detail about all the  
15 activities at all the different bases. My prediction for  
16 success, and what we were going to have to do. I spent about  
17 20 minutes on Continental which is the majority, because that  
18 was the only active campaign.

19 I talked -- at Fed Ex I addressed that their  
20 current officers were very interested but we were going to  
21 have to wait with Fed Ex until we were completely done with  
22 Continental. We simply couldn't do two at the same time. We  
23 might have had the financial resources, we don't have the  
24 human resources. It takes about a hundred volunteers plus  
25 the staff.

1           You can only organize one group at a time. It is  
2 like fighting a two-front war. You are better off getting  
3 one objective done and then go on to the next objective. So  
4 most of this briefing, almost all of it, was about  
5 Continental. I touched on Fed Ex, we might do them next, I  
6 hoped we could. And that the the effort, I, this was  
7 probably my first meeting with them since our board in  
8 October that I had gone to Dallas, I met with APA, and  
9 nothing had happened, of course, now nothing would happen,  
10 we have a merger going in place with TWA, and that is the  
11 only thing we are going to to do.

12           THE COURT: Well, Mr. Woerth, the second officer  
13 report, I gather it is P 243, do you see that, January 23 to  
14 25 meeting?

15           THE WITNESS: Yes.

16           THE COURT: The second paragraph, officer reports,  
17 which is the first substantive paragraph, Captain Woerth  
18 reported that the Bilateral Scope Impact Committee  
19 established by October, 2000, board of directors, quote, for  
20 the purpose of developing as necessary a new amended  
21 established ALPA policies and procedures, including but not  
22 limited to the impact of the scope provisions on ALPA pilots  
23 to the airlines had been appointed.

24           So the very first thing is some kind of committee  
25 that is dealing with scope issues. And some discussion of



1 the impact. What is that all about?

2 That is the first thing you discuss. The word  
3 Continental isn't even mentioned. That is the very first  
4 thing in the minutes.

5 A. Actually, your Honor, this by Bilateral Scope Impact  
6 Committee had really nothing to do with the classic job  
7 security provisions and scope of acquisitions. This was  
8 purely focused on the relationship between regional airlines  
9 and main line carriers so this was all about how do we deal  
10 with limitations on scopes for regional jets and for the  
11 regional jet operators had an interest in lifting scope so  
12 they could fly more of them, the main line was trying to  
13 restrict RJ flying, so this really had nothing to do with the  
14 classic scope provisions, this was more how do we deal  
15 with regional jets, the whole purpose of the bilateral scope  
16 impact committee.

17 Q. To follow up on that, Mr. Woerth. A scope usually  
18 appears in the section 1 of ALPA contracts, doesn't it?

19 A. Yes, it does.

20 Q. And would, within section 1 there are a variety of  
21 protections for pilots?

22 A. Yes.

23 Q. And did ALPA at that time represent the main line  
24 carriers like Delta, as well as their regional or feeder  
25 carriers, like Conair and ASA?

1 A. Of course, yes.

2 Q. And did the Delta pilots scope provisions have an  
3 alleged impact upon the ASA and Conair pilots flying?

4 A. Yes.

5 Q. Would you describe for the Court and jury what that  
6 issue was?

7 A. Yes. As regional jets were introduced into the industry  
8 beginning in 19, mid 1990s, it became evident that they were  
9 going to be paid only a tiny fraction of main line fare,  
10 sometimes way less than half, maybe two thirds less, and that  
11 carriers like United and U.S. Air and American, and others,  
12 everyone was concerned that they were going to go very  
13 rapidly and replace the job of some smaller jet flying by the  
14 main line carriers, it is going to be job transfer away from  
15 main lines like Delta and United into Conair, Pinnacle,  
16 airlines you never heard of, who are going to get this out  
17 source flying.

18 So there was a lot of tension between the  
19 limitations on that flying into the contract that main line  
20 carriers got their owners to agree to, and that aspirations  
21 of some regional pilots who wanted those removed so they  
22 could fly bigger equipment and get more flying for  
23 themselves.

24 THE COURT: Mr. Woerth, in terms of scope, isn't  
25 there a difference in attitude for the pilots of an airline

1 that was likely to be acquirer, American was likely not to be  
2 taken over, they were likely to be the ones, historically I  
3 think who were buying airlines. Their pilots would have one  
4 viewpoint, which would be not to have these newly acquired  
5 pilots take their jobs away.

6 Then you have other airlines who are more likely to  
7 be targets of a takeover by the TWA. Their concern is the  
8 reverse. Their concern is that when they are taken over they  
9 don't get stapled to the bottom and that they maintain some  
10 seniority. Is that right?

11 THE WITNESS: That is correct. And --

12 THE COURT: How did that play out in your role as  
13 president of the union, that tension between the airline who  
14 was likely to be a taker-over, as opposed to one who is  
15 likely to be taken over?

16 THE WITNESS: Your Honor, that is why we had ALPA  
17 merger policy, that if there was an acquisition, the  
18 governing policy, ALPA-to-ALPA, would be merger policy and  
19 notwithstanding all these other provisions. In the end, the  
20 merger and integration would be governed by our policy.

21 THE COURT: That is within ALPA and ALPA.

22 A. That's correct. When you don't have an ALPA carrier, it  
23 becomes very difficult. Most U.S. carriers, your Honor, if  
24 you will permit me, actually wrote scope provisions covering  
25 both directions because they didn't know what was going to

1     happen.

2             American, if I may say, was a little unique in  
3     their arrogance in presuming there would only be one way, it  
4     would always be the acquirer, but in the unlikely event they  
5     are acquired, the very provisions that they denied anyone  
6     else they insisted upon for themselves. It was the ultimate  
7     hippocracy, but that was the contract of American Airlines.

8     Q.     So the contract at American said if American were  
9     acquired by some other airline, they would have the right to  
10    a seniority arbitration to put the list together?

11    A.     That's correct.

12    Q.     But they denied that same right to the pilots of an  
13    acquired airlines?

14    A.     Yes, they did.

15    Q.     All right. If two ALPA carriers merged, and the ALPA  
16    merger policy applies, what happens with the seniority  
17    integration in that circumstance?

18    A.     When it us two ALPA carriers emerging, they have a  
19    period of time when they are supposed to try to negotiate an  
20    agreement. We don't want this to drag out forever so let's  
21    try to be the prescription, try to get it done within I think  
22    six months. And failing a successful negotiation of good  
23    faith of both parties, they are able to submit the seniority  
24    integration to a third party, an arbitrator, and that happens  
25    a great deal of the time.

1 Q. You are saying frequently it does take an arbitrator to  
2 resolve a seniority integration dispute?

3 A. Yes, it does.

4 Q. Do you have an opinion why that is?

5 A. Yes, I do.

6 Q. Would you state it, please?

7 A. I believe that seniority integration is the most  
8 difficult political thing a member of a committee or an MEC  
9 can do, and it is unlike even contracts where we do contracts  
10 and side letters all the time, contracts are constantly  
11 amended, and there is always a point where we gave up too  
12 much or we didn't get enough but a contract is short term.  
13 It may last a couple of years.

14 For pilot seniority, the seniority numbers last  
15 forever, so the emotion and the responsibility is usually  
16 overwhelming.

17 It is very common that a pilot, MEC or a merger  
18 committee, pilot sees where a deal could be but they just  
19 can't be the one who forever tells their pilots, I agree to  
20 your seniority number for the rest of your life. Especially  
21 knowing full well that every pilot wants more seniority.  
22 There is no way to make it happen. It is human nature. If  
23 there is a way to punt it to a third party, it is natural  
24 that usually that is what happens. They give it to an  
25 arbitrator and let him decide.

1 MR. KATZ: Your Honor, I have a couple more  
2 questions and I would like to take a break.

3 THE COURT: I was going to tug.

4 Q. Let me follow-up with this one issue and one other. It  
5 won't take a second.

6 What impact, if any, do these provisions of ALPA  
7 merger policy, did these provisions of ALPA merger policy,  
8 have upon the American, the prospect of the American pilots  
9 joining ALPA after January 9, 2 2001?

10 A. Well, they have always been the principle obstacle.  
11 American pilots, as evidenced by their contracts, do not want  
12 to -- want to totally be in control in a situation. When  
13 they acquired somebody they wanted the right to have total  
14 control and domination of the outcome and they put that in  
15 their contract.

16 One of the principle obstacles to ever getting  
17 American back is the attitude of the American pilots who do  
18 not want to be subject to arbitration. And so while, to try  
19 to get American to join us, which would be subject them to  
20 arbitration was completely nonsensical. The whole reason  
21 they stayed out, I mean, they insisted on no seniority  
22 integration for American as an absolute principal they wanted  
23 to have, and if they joined ALPA they would have to buy our  
24 bylaws submit to arbitration. So it was a non-starter for  
25 American pilots.

1 MR. KATZ: I think this would be a good time for a  
2 break.

3 THE COURT: Okay. Ladies and gentlemen, we will  
4 take a break until 20 after ten. Do not discuss the case  
5 among yourselves.

6 Keep an open mind until you have heard all the  
7 evidence. All rise when the jury leaves.

8 (Jury leaves the courtroom.)

9 THE COURT: I will see you at 20 after ten.

10 (Recess).

11 (Jury enters the courtroom.)

12 DUANE WOERTH, Resumes.

13 THE COURT: Mr. Katz, you can continue with your  
14 direction examination.

15 MR. KATZ: Thank you, your Honor.

16 CONTINUED DIRECT EXAMINATION

17 By MR. KATZ:

18 MR. KATZ: In order to expedite the process I would  
19 like to distribute the exhibits that I plan to go through  
20 with this witness, to the Court, the witness and opposing  
21 counsel.

22 THE COURT: Okay.

23 MR. KATZ: They are in the order I plan to address  
24 them.

25 THE COURT: Okay.

1 THE COURT: You have a document here called  
2 jumpseat policy but there is no marking on it.

3 MR. KATZ: I will explain that when we get to it.  
4 If you like I would address it now. I would rather start  
5 with the April 2 MEC meeting. I think we had the resolution  
6 up on the projection screen a few minutes ago.

7 THE COURT: J 124?

8 MR. KATZ: No, it is one of the earlier ones, that  
9 we looked at.

10 THE COURT: What are you beginning with?

11 MR. KATZ: It might be D 74. Is that the  
12 resolution. Let's start with the resolution.

13 Q. This is D 13?

14 THE COURT: D 74 is already in evidence.

15 Q. D 13 is in evidence now. You are familiar with this  
16 resolution of the TWA MEC, Mr. Woerth?

17 A. Yes, I am.

18 Q. And looking at the, do you know what the voting was,  
19 without looking at the document?

20 A. Yes, I do.

21 Q. Would you describe that, please?

22 A. I think everyone except Hollander ended up voting for.

23 Q. And it does recite, as we looked before at the  
24 whereas's, extensive advice from various advisors. Did you  
25 have any role in telling these advisors what advice to give?



1 A. No.

2 Q. Did you appear at the April 2 MEC meeting?

3 A. No.

4 Q. Why not?

5 A. I wasn't invited.

6 Q. And how does that work under ALPA's practice?

7 A. ALPA's practice is, I am like the president. We have 41  
8 airlines. And I work in Washington, and I don't impose  
9 myself on the govenors, I don't just show up at their  
10 meetings. I am the president. I want to talk to you, if  
11 they want my advice they can invite me to meetings which I am  
12 happy to attend. They can see me in Washington. But I had  
13 60,000 pilots, of which -- to represent. I am not ensure  
14 where I was April 2, but I wasn't with them, I know that.

15 Q. Were you invited to that meeting?

16 A. No, I was not.

17 Q. And do you have other responsibilities as the president  
18 of the union?

19 A. Many additional responsibilities. Yes. 60,000 pilots,  
20 40 airlines.

21 Q. Is there a staff of the Air Line Pilots Association  
22 responsible for directing the activities?

23 A. Yes, we have nearly 500 employees and lots of directors  
24 and lawyers who do the work.

25 Q. And are there areas that you focus on aside from local

1 issues affecting particular airlines?

2 A. Well, I am principally responsible for all the finances  
3 of the association and its governing policies and Washington  
4 politics.

5 I deal with the administration and Congress, and at  
6 this particular time we were in the middle of an organizing  
7 drive with Continental. I was dealing with the Conair air  
8 strike, the biggest thing going on in April, we had a strike  
9 of the Conair pilots, regional pilots had just gone on strike  
10 so I was dealing with that.

11 Q. When you say dealing with the administration what you  
12 are you referring to?

13 A. I am dealing with the Department of Transportation,  
14 Federal Aviation Administration, National Mediation Board.  
15 Anything that might interface and affect our pilots contracts  
16 or their companies.

17 Q. All right. And did you agree with the decision that the  
18 MEC made on April 2?

19 A. Absolutely.

20 Q. Why did you think they made the correct decision, Mr.  
21 Woerth?

22 A. Any other decision would have resulted in a liquidation  
23 of TWA and loss of all their jobs. It seemed obvious it was  
24 the only decision.

25 THE COURT: Mr. Woerth, they still had the four

1 days later, the 1113 hearing, the bankruptcy court which  
2 could have achieved the same thing.

3 THE WITNESS: It could have achieved the same  
4 thing, potentially.

5 THE COURT: If that had been granted they wouldn't  
6 have walked away.

7 A. I am sorry, your Honor?

8 THE COURT: American wouldn't have walked away?

9 A. They probably might have waited until until the end of  
10 1113.

11 THE COURT: That was four days off, April 6 it was  
12 scheduled, the hearing on that.

13 THE WITNESS: I accept your point, your Honor.

14 Q. How would you compare the results for the TWA pilots of  
15 the deal that they accepted on April 2, versus what would  
16 have happened if the 1113 motion had been granted?

17 MR. JACOBSON: Your Honor, I think this is getting  
18 too far into legal opinion.

19 THE COURT: Yeah, that is getting pretty subtle.

20 MR. KATZ: To compare the results of the 1113 --

21 THE COURT: We don't know what the results of the  
22 1113 were going to be. Not on April 2. I don't know what  
23 you are getting at. I am just not sure what you are getting  
24 to.

25 Q. Let me ask the witness to turn to exhibit J 124, which

1 is in evidence.

2 THE COURT: J 124?

3 MR. KATZ: Yes, your Honor.

4 THE COURT: Is in evidence. You are correct.

5 Q. This is a letter to you dated March 26, 2001, from  
6 Roland Wilder, who is seniority lawyer for the TWA pilots,  
7 correct?

8 A. I am looking at J 124 now, yes.

9 Q. Did I describe what it is correctly?

10 A. Yes.

11 Q. All right. And did you receive this letter on or about  
12 March 26, 2001?

13 A. Yes, I did.

14 Q. And did this present an alternative that was available  
15 to the TWA MEC?

16 A. I referred this document, I didn't try to render a legal  
17 opinion on what advice it takes. I turned this letter after  
18 reading it over to our counsel for advice.

19 Q. The first paragraph of the letter, maybe we can blow  
20 that up, says, Mr. Wilder is advising you that the MEC will  
21 decide as early as March 30, that is a few days later,  
22 whether suit should be instituted against TWA and A and  
23 American to compel arbitration of the minor dispute created  
24 by the carriers violation of the successorship provisions of  
25 the TWA/ALPA collective bargaining contract. In preparation

1 for this eventuality, the master chairman instructed me to  
2 seek your authorization under the ALPA Constitution to sue  
3 the carriers for the reasons set forth below.

4 So what consideration did you give to that  
5 request?

6 A. Well, two things: First, I turned the entire letter  
7 over to my attorneys for advice.

8 But the second question was, I normally get letters  
9 like this not from an attorney, The master chairman makes a  
10 request to me, not an attorney directed by a master chairman  
11 so I was waiting to hear from Bob Pastore.

12 Q. Did you get a request from Captain Pastore or a lawsuit  
13 at this time?

14 A. No, I did not.

15 Q. To your knowledge, was there a resolution adopted by the  
16 TWA MEC seeking this kind of lawsuit?

17 A. I don't remember any resolution.

18 Q. And who were the lawyers to whom you referred the  
19 letter?

20 A. I would refer this first to our in-house counsel,  
21 Jonathan Cohen, ALPA's own internal counsel, and I assumed he  
22 would get the advice of our general counsel, Cohen, Weiss and  
23 Simon.

24 The lawyers would get together to try to give me  
25 their advice and recommendations as to this procedure.

1 Q. All right. In the middle paragraph that is up on the  
2 screen, it says Mr. Wilder is seeking to institute litigation  
3 in the United States District Court for the district of  
4 Delaware. And acknowledge other things he is seeking  
5 injunctive relief. At the very end, in order to preserve the  
6 -- sorry. -- enjoining -- an injunction enjoining the  
7 completion of the TWA American transaction. Without getting  
8 into the legalistic aspects of it, did you have a view as to  
9 the desirability or undesirability of that proposed course  
10 much action?

11 MR. JACOBSON: Objection, your Honor. I think this  
12 requires some foundation. He just said he doesn't apply a  
13 legal and he handed it off to the lawyers.

14 THE COURT: I agree with that.

15 Q. Did you read the letter?

16 A. Yes.

17 Q. And did I understand what Mr. Wilder was proposing to  
18 do?

19 A. Yes.

20 Q. What was your understanding based on this letter?

21 A. My understanding -- I understood that he was asking me  
22 to sue to keep the ability to arbitrate, even though the  
23 motion, knowing that the TWA agreement may fail, or collapse,  
24 unless their ability to arbitrate was eliminated. So it a  
25 seemed, we were debating two things. Negotiate it and maybe

1 it will go away, and to have a court to keep it under the  
2 threat that American may walk from the transaction. We  
3 didn't know that. With absolute certainty that was my  
4 belief.

5 So it seemed to be at cross purposes with the  
6 survival, in my judgment. But I was waiting to get advice  
7 from my attorney.

8 Q. All right. And did something happen before the  
9 attorneys responded?

10 A. Well, they got this agreement in April 2, the MEC agreed  
11 to their deal on April 2.

12 Q. Okay. Do we have D 74 in evidence?

13 We looked at the resolution of the TWA MEC a minute  
14 ago. What impact, if any, did the TWA resolution on April 2  
15 have on the request for the initiation of a lawsuit?

16 A. I didn't hear any more about it at that time.

17 Q. What was your assessment of the MEC's decision on April  
18 2?

19 A. My understanding was that they had taken a course of  
20 action to eliminate additional risk under 1113. At least  
21 they knew what they agreed to in this case, and with the  
22 hopes that the transaction would ultimately be completed.

23 The asset acquisition and TWA LLC, and leading to  
24 what we knew would take about another year to the final  
25 integration becoming American pilot. I thought we were on

1 that road now.

2 Q. And did you agree with that decision?

3 A. Yes, I did.

4 Q. Could you think of anything that you could have done or  
5 that ALPA could have done to persuade the Allied Pilots  
6 Association to go along with the seniority integration  
7 process that ended up with arbitration?

8 A. I do not.

9 Q. All right. After the MEC made this decision on April 2,  
10 you made an appearance, did you not, at the Allied Pilots  
11 Association board of directors meeting in April, 2001?

12 A. Yes, I did.

13 Q. Would you tell us how that came about, please?

14 A. I requested a meeting and asked that president of APA,  
15 John Darrah at the time, it was going to be in Texas, in  
16 Dallas, to meet with American Eagle pilots and I wanted this  
17 opportunity to talk to the board to advocate the position of  
18 the TWA pilots in in this integration.

19 Q. Did Mr. Darrah extend an invitation to you to appear  
20 beer before the Allied Pilots Association board on April 5?

21 A. Yes, he did.

22 Q. You accepted that invitation and addressed the board?

23 A. Yes, I did.

24 Q. Tell us, what did you tell the board?

25 A. I told the board that the TWA pilots had made a very



1 difficult decision, it is hard to give up scope protection,  
2 and a right you believe you have, and, but they had done that  
3 now.

4 I was really trying to get them convinced that most  
5 importantly, that the provision in the contract about just  
6 stapling to the bottom 100 percent of the TWA pilots was  
7 totally unacceptable, it was morally reprehensible. They  
8 would live to regret the day in this regard. They wanted,  
9 they were very jealous of the Northwest contract, the United  
10 contract, the Delta contract, the ability to have pilot  
11 unity, and as a reminder to them they had done small things  
12 before, the great American Airlines had a couple of small,  
13 they bought Trans Caribbean in the sixties, they bought Air  
14 California. They bought Reno, those were tiny small  
15 transactions. 11,000 pilots absorbing two or three hundred.

16 And this was very different. TWA was almost 2,500  
17 pilots with an established carrier, very seasoned, and if  
18 they wanted unity they were going to have for their combined  
19 future at American, they are going to have to have a fair  
20 process, even if it didn't include arbitration, their  
21 negotiation was going to have to really stretch beyond what  
22 they purportedly had right in their contract. So I was  
23 encouraging them to use all their efforts to go way beyond to  
24 what they thought they were going to do to think of the long  
25 term future of American, which included TWA, that they would

1 would be better off having a fair integration through  
2 negotiation and that I would do everything I can to help that  
3 process.

4 I suggested we get facilitation, if you won't have an  
5 arbitrator, at least get some outside help to try to get the  
6 parties to get to a deal, but they could not approach this  
7 like they did with Reno Air or Trans Caribbean or Air  
8 California. This was a big transaction, the TWA pilots  
9 deserved a better integration that their contract was  
10 providing.

11 Q. Did you tell the Allied Pilots board of direct  
12 directors that you told the TWA pilots that they needed to  
13 get real?

14 A. No. I told American pilots that they needed to get real.  
15 It was all in reference to this idea that they could staple  
16 absolutely to the bottom of single pilot. That was  
17 completely unreasonable. And I reminded them of their  
18 hypocrisy, quite frankly. If you are acquiring somebody,  
19 you want to be stapled. If you are being acquired by  
20 somebody else, you want to be integrated, I told them that.  
21 I called them on that. They didn't seem to blink, but I  
22 think they got my message.

23 Q. Did you compare this transaction to the Reno deal?

24 A. Yes.

25 Q. What did you say about that?

1 A. There was nothing to compare. Reno was a brand new  
2 airline with junior pilots. There was only a couple hundred  
3 of them. And TWA had been around for 70 years, and some of  
4 these pilots had been flying for 30 years. And they had an  
5 important international network and domestic network, their  
6 company thought it was important enough to buy them, for  
7 their future they ought to do a fair integration.

8 Q. Did you say anything to the Allied Pilots Association  
9 board of directors with regard to the age and experience of  
10 the TWA pilots in terms of how that might impact the American  
11 pilots?

12 A. Well, I tried to remind them that TWA was also a very  
13 senior pilot group. They had a lot of senior pilots and  
14 within five to ten years, I thought a large, I didn't have  
15 precise numbers, but 30 to 40 percent of the TWA pilots would  
16 retire, in other words, the benefit of that American pilots  
17 were all going to to get promoted inside to those jobs, so  
18 that again, my focus was trying to think of the long term.

19 This is a merger that is going to happen now.  
20 American will benefit and you will inherent a lot of good  
21 jobs from TWA because their senior pilot force will retire,  
22 so bottom line, think long term. Don't think about tomorrow.  
23 Think ten years from now.

24 Q. Mr. Woerth, do you think that your appearance before the  
25 APA board of directors was a help or a hindrance to the TWA

1 pilots in their seniority integration?

2 MR. JACOBSON: I am going to object, your Honor.  
3 I think that is total speculation.

4 THE COURT: Ask that a different way. I am  
5 sustaining the objection to that question.

6 Q. Mr. Woerth, what if any impact do you feel your  
7 appearance had?

8 A. I do know that unlike in previous acquisitions by  
9 American, that APA ultimately did agree to enter in  
10 facilitated negotiations, negotiations that ultimately took  
11 place from, well, the deal was in April. They continued to  
12 negotiate all the way through mid September which was very  
13 uncharacteristic of American, and that they did come off  
14 their staple everybody to the bottom of the lies, it was  
15 still in my view a harsh integration but 46 percent of TWA  
16 got integrated. Not as well as I would have liked. And so I  
17 hope there was some impact. I can't take credit for this. I  
18 tried my best.

19 Q. All right. Returning to exhibit P-244. Which has been  
20 now I think received in evidence?

21 THE COURT: Which one?

22 MR. KATZ: P-244. I distributed that before.

23 THE COURT: That is in evidence.

24 MR. KATZ: Before the break.

25 THE COURT: That was already in evidence.

1 MR. KATZ: Yes, that came in through the Rachsford  
2 video.

3 THE COURT: That was already in.

4 Q. This is the executive council meeting minutes of April 9  
5 to 11, 2001. Do you have that? Can you put that up?

6 A. I am trying to find it. Executive council minutes.

7 Q. Right. You are familiar with this document, Mr. Woerth?

8 A. Yes, I am.

9 Q. Let's flip to page 12. There is a briefing to the  
10 board. The executive council that is noted here under the  
11 heading agenda item number 3, organizing slash pilot unity  
12 campaign review.

13 Did you provide that?

14 A. Yes.

15 Q. And what was the purpose of this review?

16 A. Well, we are required to update I think the executive  
17 council at every meeting so we give them the review of the  
18 status of where we were.

19 Q. The second paragraph, Brian, can you blow that up,  
20 please?

21 The minutes say the association has expanded its  
22 activities with four major independent pilot unions, it names  
23 them. In an effort to achieve the associations goal of  
24 unifying the pilots of the United States and Canada under the  
25 ALPA banner.

1           What did you say to the ALPA executive council in  
2 April on this subject, Mr. Woerth?

3       A.   Well, like, this pretty much in the same vein as our  
4 January meeting, I spent about 20 minutes on Continental,  
5 because that was coming to a close. We were going to have  
6 the vote, or almost immediately, and wanted to update them on  
7 what I thought was going to happen. Fed Ex we had already  
8 started an active campaign there beyond grass roots now, we  
9 had engaged in a very serious way the Fed Ex board of  
10 directors, MEC, if you want to call it that, and we are  
11 prepared immediately upon the success of Continental which I  
12 anticipated to happen almost immediately, that we would,  
13 before the dust was settled, we would have a very active  
14 campaign at Federal Express.

15           At Allied, I was reporting that I had actually gone  
16 to just a few days earlier to the Allied Pilots Association  
17 and, to advocate on behalf of TWA pilots and there was  
18 nothing going on at American. There was no chance, or even  
19 way to contemplate a merger. We are in the middle of the  
20 merger with the seniority integration, Allied Pilots hadn't  
21 gotten back to us at all. I didn't expect anything with the  
22 obvious reason --

23           THE COURT: Mr. Woerth, that is not what this says.  
24 This says you were expanding your activities with four major  
25 independent unions. You name the four. The third one you

1 name is Allied. That is what it says.

2 THE WITNESS: That is what it says.

3 THE COURT: That is not the answer you were given.

4 You were describing something other than what that says.

5 That said you, my question is what did you do, what expansion  
6 did you do with the Allied Pilots Association, like that says  
7 there.

8 A. We did nothing, your Honor. My --

9 THE COURT: Then why did that say that?

10 A. This was a heading typed up by our secretary, that, it  
11 was a 20-minute speech, that is how she captured it. It was  
12 my briefing from all four items from my pilot resolution, I  
13 gave them an update on each one. Two of them had very active  
14 activities, your Honor. Allied had nothing. We had some  
15 minor outreach from Air Canada Pilots Association, ACPA, and  
16 that was my report, your Honor.

17 Q. Following the meeting of the ALPA executive council, did  
18 you attend a meeting of the TWA MEC in or around April of  
19 2001?

20 A. Yes, I did.

21 Q. Would you describe how that came about?

22 A. I was invited by Captain Pastore to come to the meeting.

23 THE COURT: Date of the meeting again?

24 A. I believe it was towards the end of April. The precise  
25 date I am not sure.

1 MR. KATZ: Your Honor, I would offer for it  
2 indication exhibit J 426, which is the minutes.

3 THE COURT: Is there any objection to that being in  
4 evidence? J exhibit? The very last J exhibit.

5 MS. RODRIGUEZ: No, your Honor.

6 THE COURT: What?

7 MR. JACOBSON: No, that was a P, wasn't it.

8 THE COURT: No, he is saying J 426.

9 MR. JACOBSON: We have no objection to J 426.

10 MR. KATZ: Thank you.

11 THE COURT: Mr. Katz, do I have it right?

12 MR. KATZ: Do, you do, sir. You have it absolutely  
13 right.

14 THE COURT: Okay.

15 Q. In Mr. Woerth, that may give --

16 THE COURT: That is in evidence. I am putting that  
17 in evidence without objection.

18 MR. KATZ: Thank you, Judge Irenas.

19 Q. Does this tell you the precise date of the meeting you  
20 attended of the TWA meeting?

21 A. It was April 23.

22 Q. All right. And the minutes do reflect on the second  
23 page that you briefed the MEC regarding a variety of matters?

24 A. That's correct.

25 Q. Was there also a discussion, do you recall briefing the



1 MEC on these items that are mentioned here?

2 A. Yes, I do.

3 Q. And then it says that you briefed them on your presence  
4 at an APA board meeting in Dallas. Was that part of your  
5 address?

6 A. Yes, it was.

7 Q. And did the question arise as to what you had said to  
8 the Allied Pilots Association board?

9 A. Most certainly it did.

10 Q. What did you tell the members of the TWA MEC at that  
11 time?

12 A. I recounted accurately what I told the members of the  
13 Allied board, American pilots, how to treat, you ought to  
14 treat the TWA pilots fairly and give them a much better  
15 integration than stapled to the bottom, and basically  
16 repeated what I just gave in testimony, that you ought to  
17 think long term, the TWA pilots were senior. There is a lot  
18 of reasons to, for Allied to stretch way beyond what they  
19 were currently offering, prepared to offer the TWA pilots.  
20 That is what I told them.

21 Q. Did they have questions about your participation in this  
22 board meeting?

23 A. Well, they did because it had been erroneously reported  
24 by an American pilot that I had told them that TWA should get  
25 real, when in fact I had told Allied that they needed to get

1 real, and of course, that should be cleared up and it was.

2 Q. How was it cleared up?

3 A. I told them what actually happened, and they were  
4 satisfied.

5 Q. All right. You see below the questions and answers,  
6 there is a reference to Ted Case. And a statement he made.

7 A. Yes.

8 Q. And it says he asked you, the TWA pilots, had your  
9 commitment as the president of ALPA to use the full resources  
10 of the association, including litigation, if possible or  
11 necessary. Do you remember him raising that point?

12 A. Yes.

13 Q. What did you tell him at that time?

14 A. I believe I told him he would have our full support and  
15 we would use litigation, if it was warranted. In other  
16 words, if there was a legal basis or American or Allied had  
17 violated laws, we would proceed. But it had to be a  
18 plausible lawsuit.

19 Q. The minutes say that you told Mr. Case and the MEC that  
20 ALPA would not leave any stone unturned to protect the TWA  
21 pilots. Do you remember saying that?

22 A. Yes.

23 Q. And do you feel that you fulfilled that commitment?

24 A. Yes, I do.

25 Q. In terms of the actions of the association you were

1 listing things before April 2 and after April 2, you attended  
2 the APA board of directors. That was on April 5, right?

3 A. Yes.

4 Q. Then on April 23 you attended the TWA MEC meeting. And  
5 and met with the TWA pilots?

6 A. Yes.

7 Q. And do you remember taking part in any of the seniority  
8 integration discussions after this point in time?

9 A. It was later in the summer when the facilitation  
10 started. 2, I took the opportunity twice to attend the  
11 facilitation.

12 Q. What city were those talks being held in?

13 A. In Washington, D.C.

14 Q. Who were the participants in those talks?

15 A. There was merger committees of both of American pilots  
16 and the TWA pilots.

17 Q. Anyone else present?

18 A. I think the facilitator was also present.

19 Q. That was Rolf Dalton?

20 A. That's correct.

21 Q. And he is a nationally recognized arbitrator and  
22 mediator?

23 A. That's correct.

24 Q. With experience in airline industry disputes?

25 A. Yes.

1 Q. Were there also lawyers for the two sides there?

2 A. On at least one occasion I believe both Roland Wilder  
3 and Wes Kennedy were both present, I believe.

4 THE COURT: What is the second name?

5 A. Wes Kennedy I believe is the attorney that the American  
6 pilots were using. Wes Kennedy.

7 Q. He was their seniority lawyer?

8 A. Yes.

9 Q. Like Mr. Wilder was for the TWA pilots?

10 A. That's correct.

11 Q. And what was the subject being discussed at these  
12 meetings?

13 A. Well, they were having facilitated discussions to get to  
14 a negotiated settlement of integration. I came to support  
15 the TWA pilots and also to encourage the importance of a  
16 negotiated settlement, and the sooner they got one, the  
17 better.

18 So I was trying to encourage both parties, both  
19 parties honestly to stretch and try to reach an agreement.

20 Q. And how did it come about that you attended this  
21 session?

22 A. I asked the party, I think Bob Pastore asked if I could  
23 show the support for the TWA pilots, my physical presence at  
24 the meeting, so I complied with that.

25 Q. What did you say when you were there?

1 A. I encouraged to the Allied Pilots that they, of course  
2 were going to have to get off that stapling proposal. They  
3 are going to have to stretch, I reminded them what I told  
4 them in Dallas, you shall going to have to get way past where  
5 you think you can have a comfortable, fair settlement that  
6 you can be proud of, and American employees as well as  
7 Allied.

8           Everybody needs to get off their current positions  
9 because it was like trench warfare. You weren't going to get  
10 a deal with both sides staying exactly where they were and  
11 just staring at each other. There hadn't been a lot of  
12 movement. That is what I told them.

13 Q. Mr. Woerth, it has been suggested in these proceedings  
14 earlier before today, that the TWA pilots might have  
15 benefited if you had threatened litigation at the meeting you  
16 are referring to. Did you consider that?

17 A. I didn't think litigation would be helpful. In fact, it  
18 would be a total distraction, and might end the  
19 negotiations.

20 Q. Why did you think that?

21 A. There was no legal foundation to compel American  
22 Airlines pilots to even negotiate. They had a contract that  
23 said they could do what they were going to do. Nobody  
24 appreciated that. I certainly didn't. But I didn't see a  
25 legal argument. There was a morally persuasive argument to

1 do better, but not a legal argument to compel them to do  
2 better.

3 So my experience is this: You can't sue people  
4 into liking you and making a deal. If you sue somebody, they  
5 go into defensive huddle and just prepare to win the lawsuit.  
6 They stop bargaining.

7 So I thought litigation, while bargaining, in my  
8 opinion, that is a terrible strategy.

9 Q. All right. So in the summer, we will call this  
10 seniority list integration negotiations. And you attended  
11 one or two sessions?

12 A. That's correct.

13 THE COURT: You met with one or two?

14 A. I am pretty sure it was back to back days, your Honor.

15 THE COURT: Two-day meeting.

16 A. I attended two days in a row. I think they met longer  
17 but I think I went two days in a row. That is my  
18 recollection.

19 Q. Let me refer you to exhibit D 181 which is in evidence.  
20 It is a summary of your comments to the April 23 MEC meeting.

21 A. Okay.

22 Q. With regard to this issue, what you said on the second  
23 page at the top, the MEC reports that you said TWA MEC had  
24 made a realistic assessment of their situation, made the hard  
25 decision and now APA needs to get realistic and make a hard

1 decision. Is that an accurate reflection of your comments at  
2 the meeting?

3 A. Yes, it is.

4 Q. Thank you. Did you meet with any TWA pilots separately  
5 from the meeting at about that time while you were in St.  
6 Louis?

7 A. In a completely separate meeting, I don't recall that.

8 Q. Like a lunch meeting, for instance?

9 A. I think we probably had lunch with the officers. That  
10 seems plausible. I don't have a specific recollection of it.

11 Q. Do you recall a request by Captain Mike Day, the  
12 chairman of the merger committee for the TWA pilots, to  
13 initiate a jumpseat war?

14 A. Yes.

15 Q. Was that made at or about that time?

16 A. I believe it was.

17 Q. And what was your response?

18 A. My response was that we had ALPA policy prohibiting that  
19 and we had a national jumpseat policy, that we weren't going  
20 to engage in a jumpseat war. That would not help the TWA  
21 pilots and inconvenience and anger everyone. Again, I  
22 thought this was another suggestion that was going to harm  
23 the process, not help the process. And not just at American  
24 and TWA, it would have started involving all the other  
25 airlines in a disruption of everybody's life. But most

1 importantly, ALPA specifically has a policy that says we are  
2 not going to do those things.

3 MR. KATZ: Your Honor, I would like to mark for  
4 identification the document that I have distributed which is  
5 actually a part of exhibit P 18. For some reason when the  
6 plaintiffs copied P 18, which is the ALPA administrative  
7 manual in effect at the time, these pages were not part of  
8 what they copied. They were part of the deposition.

9 MR. JACOBSON: Your Honor, they were not, this was  
10 not produced to us as part of P 18.

11 MR. KATZ: This was actually used by the plaintiffs  
12 at the deposition of Gary Mugerditchian. These pages were in  
13 the document at that time.

14 THE COURT: I am trying to find it.

15 MR. KATZ: It says jumpseat policy.

16 THE COURT: I know what it says. I saw it. I  
17 can't find it now.

18 MR. KATZ: Here is another copy of it, your Honor.

19 THE COURT: I don't know where it went. I know I  
20 had it. Let's start, you want this marked as a D exhibit,  
21 right? What number would that be? Would that be D 411?

22 MR. KATZ: Yes, sir.

23 THE COURT: Okay. D 411 is marked as the jumpseat,  
24 ALPA's jumpseat policy.

25 Q. Let me ask the witness a couple questions about it?



1 THE COURT: Now, you say it is included in what?

2 MR. KATZ: It is included in P 18, when it was a  
3 deposition exhibit in the deposition of Jerry Mugerdtichian.  
4 But for some reason --

5 MR. PRESS: Your Honor, can I intervene here. He  
6 is testifying about an exhibit that omits lots of sections  
7 from the Admin manual and he is trying to suggest this was  
8 done selectively and I object to it.

9 MR. KATZ: I am saying it was there when it was a  
10 deposition exhibit. It is not there as a trial exhibit. I  
11 will ask the witness about the document. I think he can  
12 establish foundation for it. As a separate item.

13 THE COURT: All you have on P 18 here, the only  
14 description I have, is, it is not in evidence, that is not  
15 even marked, it is marked for identification. Is excerpts  
16 from ALPA Administrative Manual. Do you have P 18, the one  
17 that you jointly marked, that is marked in the pretrial? Do  
18 you actually have it? Does somebody have a copy of P 18.

19 MR. PRESS: I have it right here, Judge. You will  
20 see that it omits many, many, many, sections from the Admin  
21 manual.

22 THE COURT: It already says it does.

23 MR. PRESS: The Admin manual is probably this at  
24 all. This is just a subset of it that we marked as an  
25 exhibit.

1 THE COURT: It seems to go up only to section 75.

2 MR. PRESS: And it is not all inclusive through  
3 that section.

4 THE COURT: No. They seem to be in numerical  
5 order. And the jumpseat policy doesn't appear to be part of  
6 it.

7 MR. KATZ: Let me ask the witness a few questions  
8 about D 411 and maybe that will clear this up.

9 THE COURT: All right.

10 Q. Mr. Woerth, do you recognize the pages that have been  
11 marked as did 411?

12 A. It has been removed from my screen.

13 Q. You should have a copy of it on the stack of papers.  
14 That I gave you at the break?

15 A. All right.

16 Q. Do you recognize this document?

17 A. Yes.

18 Q. Would you tell the Court what it is, please?

19 A. The jumpseat policy as proposed and adopted by the  
20 executive board.

21 Q. Turning to the second page. Can tell us when this  
22 became effective?

23 A. It is executive board, 1997, amended by the board in  
24 2000.

25 Q. And do you see the date in the upper right-hand corner?

1 A. It says May 31, '01.

2 Q. So is this to the best of your knowledge an accurate de  
3 depiction of the association jumpseat policy as of the spring  
4 of 2001?

5 A. Yes.

6 Q. All right.

7 MR. KATZ: I would ask for its admission into  
8 evidence, your Honor.

9 MR. JACOBSON: Objection, your Honor, this is not  
10 designated by them as an exhibit in their pretrial  
11 compliance. This was not part of the exhibit P 18 as  
12 asserted.

13 THE COURT: Is there any question, though, that  
14 this is genuine? Do you challenge that it is genuine in any  
15 way?

16 MR. JACOBSON: We don't know anything about this  
17 document. It showed up last week for the first time.

18 MR. KATZ: This is not true. This was produced in  
19 discovery, your Honor.

20 THE COURT: Can you show me where it was produced?

21 MR. KATZ: It was produced --

22 THE COURT: Show me. Show me a deposition  
23 reference where it is produced. I am happy to look at it.

24 (Pause)

25 THE COURT: I am going to send the jury out. We

1 will do this outside the hearing of the jury. I don't want  
2 them sitting around.

3 Don't discuss the case among yourselves. Keep an  
4 open mind until you have heard all the evidence.

5 (Jury leaves the courtroom)

6 THE COURT: One of the reasons I am a little jumpy  
7 about this is the issue of the jumpseat retaliation policy  
8 has been in this case, I heard it before. It is not  
9 something that, the idea of that, I heard it before in this  
10 very trial, and I have heard it enduring discovery I was  
11 aware that something like that had been suggested. I think  
12 it my have even been Wilder that suggested it at some point.  
13 Was it Wilder?

14 MR. JACOBSON: I think it was suggested at least  
15 twice by two different people.

16 THE COURT: But I knew about it. It was clearly a  
17 tactic that had been discussed. And one would think that if  
18 there is an ALPA policy against it, squarely against it, that  
19 that is almost something that would have puffed up very  
20 early. It is short sort of a natural response. To be  
21 sitting here now, when I have 100 pages of marked exhibits,  
22 and this isn't one of them, somebody take this back. I don't  
23 want this. This is P 18. Whoever it belongs to. So that is  
24 my -- the case, the case has had basically almost six years  
25 of discovery, let's say four, four years of discovery. And

1 to have an issue that clearly was, you you know, one of  
2 really only a handful of strategies, that was one of a fairly  
3 small handful of strategies that surfaced at some point.

4 To have something that appears to be what he says  
5 it is, what captain word says it is, is an ALPA ban on  
6 participating in a jumpseat war, why am I seeing it for the  
7 first time.

8 MR. KATZ: Your Honor, let me make two points about  
9 that. This is not the first time this has arisen in the  
10 case.

11 THE COURT: I am asking you to show me that.

12 MR. KATZ: ALPA Bates number 34147 was part of the  
13 initial production of documents in the summer of 2005. In  
14 addition, your Honor, it was attached -- this policy was  
15 attached as an exhibit.

16 THE COURT: That is the Bates number , ALPA  
17 034317.

18 MR. KATZ: Correct. And we attached it to our  
19 reply brief in summary judgment proceedings. In 2009. When  
20 the matter was briefed. And they raised the jumpseat policy  
21 as an issue in their opposition to our summary judgment  
22 motion and we attached this policy --

23 THE COURT: Do you have that, do you have your, the  
24 brief, can you physically hand me the brief that says that?

25 MR. KATZ: I am afraid I don't have the brief with

1 me.

2 I really did not anticipate that they would say  
3 that they had never seen this before. My recollection is  
4 that it was part of the deposition exhibit P 18 when they  
5 deposed Mugerditchian, there were excerpts and this was one  
6 of them.

7 Putting that aside --

8 THE COURT: I was handed something I was told was P  
9 18 and it is not there.

10 MR. KATZ: That is what they produced at trial as P  
11 18.

12 THE COURT: ALPA 34317.

13 MR. PRESS: Out of candor, this document was  
14 produced to us. It has their Bates number on it. It was  
15 produced to us. That is not the issue.

16 THE COURT: The Bates number for the jumpseat?

17 MR. PRESS: The document on the screen has their  
18 document number on it, indicating it was produced. We don't  
19 question that.

20 THE COURT: I think what the Bates number you have  
21 to see that it was produced at some point, the document, it  
22 is going on.

23 MR. KATZ: It was part of the summary judgment  
24 briefing. They raised the jumpseat policy in opposition to  
25 our summary judgment motion.

1 THE COURT: What is the position, someone  
2 articulate the plaintiff's position?

3 MR. JACOBSON: For one thing it is not listed in the  
4 pretrial disclosure of exhibits that they will be using. I  
5 know there has been a fair amount of looseness on their part  
6 as far as complying with the pretrial, but we prepared for  
7 exhibits that are listed there in the direct portion of their  
8 case.

9 THE COURT: Somebody just took P 18 from me. Let  
10 me have it back. My fault. I am sorry. I was going to  
11 compare the Bates number on this to the numbers on this but  
12 there are none on here.

13 MR. PRESS: That came from our client's file, what  
14 you are looking at.

15 THE COURT: I thought there might be Bates numbers  
16 on that.

17 I hate to keep out evidence that is directly  
18 probative, as genuine, not, you know, there is -- there  
19 doesn't appear to be any question of authenticity here. Mr.  
20 Katz, how come it didn't wind up on your exhibit list?

21 MR. KATZ: We thought it was part of, we thought P  
22 18 was the administrative manual and we assumed it was part  
23 of that. I apologize for the oversight.

24 THE COURT: So when they produced their version of  
25 P 18, and it does say excerpts, it doesn't say the whole

1 thing.

2 MR. KATZ: Yes, your Honor. It is hundreds of  
3 pages long and we just assumed that this portion of the  
4 administrative manual as of 2001 was part of it.

5 THE COURT: You assumed.

6 MR. KATZ: Yes, sir.

7 THE COURT: Make an ass of you and me.

8 MR. KATZ: In this case, me alone.

9 MR. PRESS: Judge, I can tell you that excerpts  
10 from that manual were used at various depositions throughout  
11 the discovery phase and never once was there ever a reference  
12 to this jumpseat policy. I want that clear.

13 THE COURT: He is referring to the summary judgment  
14 brief.

15 MR. PRESS: Right.

16 THE COURT: You say there is no reference --

17 MR. PRESS: No, in discovery there was no reference  
18 to it.

19 THE COURT: I tell you what I am going to do. I am  
20 going to admit it. If I find out, and I will go back through  
21 my record and try to find, in the summary judgment, was it in  
22 the original summary judgment.

23 MR. KATZ: My recollection is the jumpseat arose in  
24 the opposition, so we put it in with the reply brief.

25 THE COURT: So it would be in the reply brief.



1 MR. KATZ: Yes, sir.

2 THE COURT: That was 09.

3 MR. KATZ: Yes.

4 THE COURT: 2009.

5 MR. KATZ: That's correct.

6 THE COURT: Well, I am going to double check to  
7 make sure it is in there. If it is in there and I am  
8 assuming now it is, I am going to let it in.

9 MR. KATZ: Thank you, your Honor.

10 THE COURT: If it turns out it is not, I will have  
11 to instruct the jury and do something, mistry the case. I  
12 don't know. I will do something to take care of it. Right  
13 now, I am not going to keep out a piece of evidence that to  
14 me is very significant, I won't say very significant, is  
15 significant.

16 There is no, I don't see any dispute as to its  
17 authenticity. So D 411, which has just been marked, it was  
18 not premarked, it goes from Bates number ALPA O 34147, to  
19 034151. And which I guess is four or five pages. And it is  
20 captioned section 1 15 jumpseat policy.

21 Okay.

22 MR. KATZ: Yes, sir.

23 THE COURT: I am going to, at least subject to  
24 confirmation that you did cite it in your brief, and just put  
25 down its absense is something due to some confusion as to

1 what was in P 18.

2 MR. KATZ: Thank you, your Honor

3 THE COURT: I will, at the next break, try to get  
4 my law clerk to explore the electronic filing to see if I can  
5 find the reply brief. In that summary judgment motion.

6 Okay. Are we ready for the jury back.

7 MR. KATZ: Yes, sir.

8 (The jury enters the courtroom.)

9 THE COURT: Welcome back.

10 THE COURT: Mr. Katz, you may continue your direct  
11 examination.

12 By MR. KATZ: Is exhibit D 411 in evidence, your  
13 Honor?

14 THE COURT: Yes, it is in evidence.

15 MR. KATZ: Could we display that to the jury.

16 BY MR. KATZ:

17 Q. Let's focus on the pages here, the two big paragraphs in  
18 the middle there.

19 Mr. Woerth, were you familiar with this ALPA policy  
20 at the time you had a conversation with with Captain Day in  
21 the spring of 2001?

22 A. Yes, I was.

23 Q. And had you had experience in pilot groups raising this  
24 issue prior to that time?

25 A. Yes, I did. Frequently, actually.

1 Q. And how did it come up?

2 A. It came up almost every dispute between pilot groups  
3 could be for a merger, it could be with RJ issues, regional  
4 issue, big airline, any dispute whatsoever, any dispute  
5 whatsoever somebody usually wanted to start a jumpseat  
6 campaign. And so I would estimate at least three or four  
7 times a year somebody from a different airline made the same  
8 request that Captain Day did.

9 Q. Done and did you have a standard employee or did you say  
10 something different?

11 A. Each time it is against ALPA policy and we are not going  
12 to have a jumpseat war.

13 Q. Is that what you told Captain Day?

14 A. Yes.

15 Q. And did you refer him specifically to the paragraph  
16 marked with an X there.

17 MR. JACOBSON: Your Honor, I think this is very  
18 leading at this point.

19 Q. Would you read the paragraph that begins?

20 THE COURT: I will allow it.

21 Q. Would you read the paragraph that begins, the sentence  
22 that begins denial of jumpseat privileges?

23 A. Yes. Denial of jumpseat privileges as a means of  
24 punishing, coercing or retaliating against other pilot groups  
25 or individuals is not supported by ALPA. The jumpseat and/or

1 professional standards representative appointed by the  
2 representative Master Executive Council governing body should  
3 resolve disputes that arise between pilots, airlines, or  
4 other unions.

5 Q. And your conversation with Captain Day, was there  
6 reference to this agreement?

7 A. I didn't quote the manual. It is simply, it is not ALPA  
8 policy on a jumpseat policy. That is all I said.

9 Q. In did this issue arise later in dealings with the  
10 representatives and the TWA pilot groups?

11 A. I don't remember specifically, but I wouldn't be  
12 surprised if it came up again.

13 Q. If it came up again, what was your response?

14 A. My response would always be the same, it is against ALPA  
15 policy. We don't do that.

16 Q. Did you also think that it was, it would have been, what  
17 was your view as to how effective that would have been in  
18 terms of the seniority integration talks?

19 A. It would probably be unhelpful, might even be harmful.  
20 I didn't see the benefit at all of engaging in a jumpseat  
21 war.

22 Q. Thank you, Mr. Woerth.

23 Would you turn to exhibit D 158, which is not in  
24 evidence. I would ask you to mark it for identification and  
25 identify it if you can.

1 THE COURT: Okay. You are correct.

2 Q. Can you identify this document?

3 A. Yes.

4 Q. What is it, please?

5 A. It is a request to hire James Baehler to provide  
6 negotiating training, consultant services to the merger  
7 committee of the TWA MEC.

8 Q. Is this an executive council, ALPA executive council  
9 resolution dated May 21, 2001?

10 A. Yes, it is.

11 MR. KATZ: Can this be admitted into evidence,  
12 your Honor?

13 THE COURT: Any objection.

14 MR. JACOBSON: No objection, your Honor.

15 THE COURT: D 158 in evidence.

16 Q. And can you tell us how did did this issue arise of  
17 hiring Baehler?

18 A. It was a request of the TWA MEC.

19 Q. Was it, do you know who Baehler was?

20 A. Yes, I do now. I don't think I knew him at the time.

21 Q. And how would -- who was he?

22 A. He was a consultant to provide training for negotiations  
23 to lots of different types of companies.

24 Q. All right. And did the ALPA Executive Council grant or  
25 deny the request of the MEC?

1 A. They granted it.

2 Q. This was May 21?

3 A. Yes, sir.

4 Q. 159, please, for identification.

5 THE COURT: D 159.

6 MR. KATZ: Yes, sir.

7 Q. This is just a day or two later the ALPA executive board  
8 is meeting. That is a different body from the executive  
9 council, right?

10 A. That's correct.

11 Q. We went over that before. This is the master chairman  
12 of each airline comprised the executive board. Did it not?

13 A. That's correct.

14 Q. And do you recognize exhibit D 159 as a resolution  
15 adopted by the executive board at its May 22 to 24, 2001,  
16 regular meeting?

17 A. Yes, I did I do. Can can I ask that it be admit  
18 understood evidence, your Honor.

19 THE COURT: Any objection.

20 MR. JACOBSON: No objection.

21 THE COURT: D 159 in evidence.

22 Q. All right. Tell us, Mr. Woerth, what what the TWA  
23 pilots were seeking here?

24 A. It is a long resolution. I am going to need a moment.

25

1 Additional funding to enable -- to properly  
2 represent the TWA pilots through their crisis and properly  
3 complete the task before them. They wanted another one  
4 million dollars, I think. They they already had a million  
5 dollars.

6 Q. So were they looking for additional support from the  
7 union?

8 A. Yes.

9 Q. And under the "Therefore, be it resolved," would you  
10 read what the executive board did?

11 A. It says the executive board pledges the full moral  
12 support of the association along with the necessary funding  
13 in accordance with current ALPA policies and ALPA  
14 constitutional bylaws to enable the TWA MEC to properly  
15 represent the TWA pilots through this crisis and to properly  
16 complete the tasks before them.

17 Q. So they asked for support and they got it?

18 A. Yes.

19 Q. Let me put that up on the board here, too.

20 With regard to the funding, are you aware of any  
21 project that was denied to the TWA pilots because of a  
22 shortage of funds?

23 A. I am not aware of a single project that was denied TWA.

24 Q. All right. Exhibit P 316 is in evidence. It is an  
25 ALPA --

1 THE COURT: Say again?

2 MR. KATZ: P 316. May 31, 2001 letter, from Mr.  
3 Woerth to all TWA pilots.

4 Q. Do you recognize this letter, Mr. Woerth?

5 A. Yes, I do.

6 Q. Can you tell us why you wrote this?

7 A. I wanted to write directly to ever TWA pilot and  
8 reiterated the support that the entire executive board is  
9 giving them, and to make it from me personally with my career  
10 started in Kansas City with TWA, wo that Is how I  
11 personalized it.

12 A. You started with Braniff?

13 A. With Braniff but that is where TWA headquarters were.  
14 We shared the same crew bus. My National Guard partners were  
15 TWA. I had a lot of TWA pilots friends.

16 Q. Do you identify with the TWA pilots?

17 A. Sure.

18 Q. And you explained what had happened at the recent  
19 executive board meeting?

20 A. Yes.

21 Q. And at the end, or last paragraph, blow that up. You  
22 said you would continue to coordinate with the TWA MEC and  
23 merger committee. Is it your view that you did that?

24 A. Yes, it is.

25 Q. Thank you. Exhibit 233. This is not in evidence yet.



1 THE COURT: P-2.

2 MR. KATZ: D 233.

3 THE COURT: Okay.

4 Q. Can you identify this document, Mr. Woerth?

5 A. Yes.

6 Q. What is it?

7 A. It is a letter from Captain Pastore to me.

8 Q. And can you even capsule encapsulate what he was seeking  
9 here. Well, what is significant about the aletter, in your  
10 view?

11 A. It appears with him thanking me for our support of the  
12 pilot group of the executive board.

13 Q. Let me ask you to slow down for a second. I?

14 MR. KATZ: I would ask that this be received in  
15 evidence, your Honor.

16 THE COURT: Any objection?

17 MR. JACOBSON: No objection on this one.

18 THE COURT: Okay. D 233 in evidence.

19 Q. Blow up the first paragraph, please. You were saying,  
20 Mr. Woerth, before I asked you to identify the document, what  
21 was Mr. Pastore saying in the letter?

22 A. He was thanking me for my support and getting the  
23 support of the executive board and opening and closing  
24 paragraphs. He also enclosed a copy of a video presentation  
25 along with this letter.

1 Q. He says, in the next-to-last paragraph, where he says  
2 enclosed is a copy of a video presentation that was produced  
3 with your assistance and the assistance of the ALPA  
4 Communications Department.

5 What is he talking about there?

6 A. I believe he is probably talking about the video  
7 presentation on seniority integration, that I kind of gave  
8 the introduction to a presentation for fair integration,  
9 Rightful Place, I believe it was called.

10 Q. Correct. The plaintiffs actually showed the jury part  
11 of your video in that document. So June 14 was the video.  
12 Did you participate in making the video?

13 A. Yes, I did.

14 Q. And do you know what was, what resources were used to  
15 make the video?

16 A. I know our ALPA communications facility, I believe as  
17 well as a communications specialist, helped in producing that  
18 video.

19 Q. Was it unusual for the president of the association to  
20 take part in the seniority integration materials like in?

21 A. Yes, it was.

22 Q. Why is that?

23 A. Most pilot seniority integrations want to keep the  
24 president and executive council and everybody else out of, in  
25 other words, go to your neutral corners, we don't support

1 either side, and don't make any statements that will look  
2 like it is contrary or, to ALPA policy. So there was, to  
3 speak on a specific seniority integration proposal was a  
4 little unusual.

5 Q. Are you aware of any instance of the president of ALPA  
6 participating in the seniority integration talks in this  
7 manner?

8 A. I am not aware of any.

9 Q. And was this video widely disseminated?

10 A. I believe it was.

11 Q. Exhibit 299 for identification, please. This is a July  
12 18 letter from Captain Pastore to you, Mr. Woerth. Did you  
13 receive this on or about that date?

14 A. Yes.

15 MR. KATZ: I would ask it be received in evidence,  
16 your Honor.

17 THE COURT: Any objection to D 299?

18 MR. JACOBSON: No, your Honor.

19 THE COURT: Okay. D 299 is in evidence.

20 MR. KATZ: Thank you.

21 Q. The first paragraph, Captain Pastore refers to his vice  
22 chairman appearing in front of the executive council. Do you  
23 recall that event?

24 A. Yes, I do.

25 Q. And what do you remember about it?

1 A. Well, from the earliest beginnings they did believe this  
2 would be a difficult process with APA and we, and he  
3 acknowledged it is even more difficult than he thought. And  
4 from the very first meeting that they were still extremely  
5 concerned, that not only for the process, but the ultimate  
6 conclusion that they would get a successful transaction  
7 completed in a successful integration.

8 Q. He is talking about the seniority integration as well as  
9 the transaction?

10 A. I believe so, yes.

11 Q. The last sentence of the second paragraph, blow that up.  
12 He makes reference to the fact that as of July, 2001, this is  
13 strictly an ALPA versus nonALPA integration, and asked for  
14 direct financial support for the legal fees for the firm of  
15 Baptiste and Wilder. That is Roland Wilder's firm, isn't it?

16 A. Yes, it is.

17 Q. And would you tell us what ALPA's process is for  
18 seniority integration lawyers and the funding of their fees?

19 A. ALPA's process is, everyone funds their own merger  
20 attorney. It is not from the general pool of money, or even  
21 from your normal dues. Merger attorneys are funded by  
22 special assessment on their own pilot groups. That is how it  
23 is is handled. That is everyone funds their own.

24 THE COURT: That is an ALPA-to-ALPA, wouldn't it?  
25 It wouldn't be used for 22 ALPA groups negotiating, it won't

1 be fair to pay for one side out of the general pool. But  
2 that rule about each side paying for itself, is that true in  
3 an ALPA to nonALPA merger.

4 THE WITNESS: Your Honor, it is true that an  
5 ALPA-to-ALPA is strict and ALPA to nonALPA, it is possible at  
6 a request to get additional funding, if necessary. Not the  
7 immediate funding or up-front funding but it was important  
8 that they did not run out of money.

9 THE COURT: These are both ALPA, you can say we are  
10 neutral, go to the corners and work it out. But that  
11 wouldn't be so in an ALPA to nonALP merger, would it?

12 A. As I said, your Honor, if there was an ability to  
13 request, which this is additional assistance, and that is  
14 what they are making here.

15 THE COURT: Okay.

16 Q. Focusing your attention back in January of 2001, was the  
17 proposed transaction with American Airlines an ALPA to  
18 nonALPA merger at that time?

19 A. At that time it was, but we had a complication because  
20 of a U.S. Airways potential spin-off. We had a U.S. Airways  
21 ALPA carrier potential involvement.

22 A. Was there a potential for U.S. Airways pilots to  
23 transfer to American as well as TWA pilots?

24 A. Yes.

25 Q. Did that invoke the provisions on requiring assessments?

1 A. Yes.

2 Q. Do you know whether the TWA pilots floated an assessment  
3 at that time, in January, 2001, to pay for Mr. Wilder's fees?

4 A. I don't know how soon they formed, I believe they had  
5 \$600,000, I am not sure when they raised the money.

6 Q. But what was the position of the Air Line Pilots  
7 Association in connection with the request in July 18, 2001  
8 letter that is received as exhibit D 299?

9 A. Up until that time with U.S. Airways involvement we  
10 didn't believe we could assist, but we are willing to  
11 reconsider now that U.S. Airways in which Captain Pastore is  
12 now that they are gone, we could consider additional help.

13 Q. Thank you. I would like to show the witness exhibit D  
14 136 for identification.

15 THE COURT: Okay.

16 Q. Can you identify this document?

17 A. Yes.

18 Q. What is it, please?

19 A. It is a request for economic financial analysis of a  
20 great many things, the differences between TWA and American  
21 contract.

22 Q. Let me start --

23 A. Almost a dozen.

24 THE COURT: P-136, is this that a memo from Ana  
25 McAlhrehn Schulz.

1 A. Yes.

2 Q. Ms. McAlren-Schwarts was at the time, what position did  
3 she told?

4 A. She was the director of our economic and financial  
5 analysis department.

6 Q. And the memo is dated August 3, 2001?

7 A. Yes.

8 Q. And is she reporting on a meeting she had with a  
9 representative or representative of the TWA pilots?

10 A. Yes.

11 Q. And did you receive this memo and talk to Mc. McAhlren  
12 Schultz at or about that time?

13 A. I received the memo and I believe I also talked to her.

14 MR. KATZ: Your Honor, I would ask that D 136 be  
15 received in evidence.

16 THE COURT: Any objection?

17 MR. JACOBSON: I don't believe so, your Honor.

18 THE COURT: You want time to check?

19 MR. JACOBSON: I don't believe so.

20 THE COURT: Okay. There is no objection.

21 MR. JACOBSON: No, your Honor.

22 THE COURT: All right.

23 THE COURT: D 136 is in evidence.

24 Q. There are a great many items on this list, Mr. Woerth.  
25 Is that what you were saying?

1 A. Yes.

2 Q. Does it say the timeframe or are you aware of the  
3 timeframe in which these requests for asked for?

4 A. A little more than two weeks, I think they wanted it by  
5 August 20.

6 Q. Do you know whether the economic and financial analysis  
7 department at ALPA was able to fulfill any of these requests  
8 during this period of same?

9 A. I believe they fulfilled everything they could get done.  
10 I can't certify that every one was, I doubt very much that it  
11 was possible but I think they did all they could.

12 Q. D 137, for identification, please. Do you recognize  
13 this as an email from an ALPA employee, Troy Eklert, dated  
14 August 15, providing a contract comparison, TWA pilots?

15 A. Yes, I do.

16 Q. Did you, were you aware that they, E and FA department  
17 had prepared that in the summer?

18 A. Yes, I was.

19 Q. I ask that D 137 be received in evidence, your Honor.

20 MR. JACOBSON: I don't think there is any evidence  
21 that this was ever given to the TWA MEC.

22 THE COURT: Say again.

23 MR. JACOBSON: I don't believe there is any evidence  
24 this was given to the TWA MEC. I am looking at the  
25 documents.



1 MR. KATZ: Your Honor, DJ Glasby is the recipient  
2 of the email and the attachment, he was deposed on January  
3 14, 2011, and he admitted that he received --

4 MR. JACOBSON: Let me see what Mr. Glasby may or may  
5 not have said.

6 THE COURT: Are you objecting to its admission?

7 MR. JACOBSON: Just a second to look at it.

8 THE COURT: It doesn't say anything that is really  
9 not, it is really not basically conceded.

10 MR. JACOBSON: I agree.

11 THE COURT: As to the difference in the two  
12 contracts.

13 MR. JACOBSON: I agree with you.

14 THE COURT: Okay. I will admit that exhibit. D  
15 136 in evidence.

16 MR. KATZ: Thank you, your Honor.

17 Q. This document reflects --

18 THE COURT: Everybody at the MEC understood the  
19 difference between the APA contract and the ALPA contract?

20 A. I am pretty sure.

21 THE COURT: That was not a secret any more.

22 THE WITNESS: No.

23 Q. It was understood whose pay rates were higher, right?

24 A. Yes.

25 Q. And that was?

1 A. That was American, of course.

2 THE COURT: My question was specifically as to the  
3 seniority provisions, the scope provisions of the two  
4 contracts. It was understood that Allegheny Mohawk rights  
5 that TWA had in its ALPA contract were not in the American  
6 APA contract, at least when American was the acquirer.

7 A. That's correct.

8 THE COURT: That was understood.

9 Q. So I have written up there the contract comparison that  
10 was compared by the economic and financial analysis  
11 department. Could we turn to exhibit D 160 for  
12 identification, please: Do you have that document?

13 A. Yes, I do.

14 Q. Can you identify what the document is?

15 A. It is another outside counsel request by the TWA MEC

16 Q. This is an ALPA executive council resolution dated  
17 September 24, 2001?

18 A. Yes.

19 MR. KATZ: I would ask for its receipt in evidence,  
20 Judge Irenas.

21 MR. JACOBSON: No objection, your Honor.

22 THE COURT: D 160 in evidence. Go ahead.

23 Q. Let's just flip down to the bottom paragraph where it  
24 says the final resolution?

25 A. Yes.

1 Q. The MEC has requested that the association retain Roland  
2 Wilder to provide legal services related to an alleged  
3 violation by TWA and American of the contractual obligations  
4 in connection with seniority integration. Do you know what  
5 that refers to?

6 A. Yes, I do.

7 Q. Would you tell the jury, please?

8 A. I think we were preparing a grievance as to the best  
9 efforts clause of an American agreement with, to use their  
10 best efforts in seniority integration, we were filing a  
11 grievance and this was a request to have -- to pay Roland  
12 Wilder for those services.

13 Q. Turning to the therefore, therefore be it resolved and  
14 further resolved clauses on the second page.

15 A. Yes.

16 A. We, the executive council authorized, we gave them what  
17 they asked for.

18 Q. Okay. This is different from the seniority integration  
19 fees, this is work on something else?

20 A. Yes.

21 Q. Kind of grievance litigation?

22 A. Correct.

23 Q. Let me continue my list here. I have run out of room on  
24 this page. Let me start a new page. There was September 24.  
25 Wilder fees.

1 Do you know whether action was taken on this issue  
2 to pursue this legal concept.

3 A. Yes, we did pursue the grievance.

4 Q. All right. Except D 305 for identification. Do you  
5 have that, Mr. Woerth?

6 A. Yes, I do.

7 Q. Is this the submission made under your name of the  
8 grievance to the system board of adjustment?

9 A. Yes, it is.

10 MR. KATZ: Your Honor, I would ask that 305, D 305,  
11 been received in evidence.

12 MR. JACOBSON: No objection.

13 THE COURT: D 305 in evidence.

14 Q. The document has several parts, the first page is dated  
15 October 26, 2001. Is that signature on your behalf on page  
16 3, Mr. Woerth?

17 A. Yes, it is.

18 Q. And is that the submission by the Air Line Pilots  
19 Association of this grievance to this system board of  
20 adjustment?

21 A. Yes, it is.

22 Q. And is that an arbitration panel?

23 A. Yes, it is.

24 Q. What is the question that was presented, looking back to  
25 the bottom of page 1?

1 A. The question was, has TWA LLC/ American Airlines  
2 violated section 29 of the transition agreement and the  
3 letters dated March 17 and March 30, related to the  
4 agreements by failing to use its reasonable best efforts with  
5 the Allied Pilots Association to secure a fair and equitable  
6 process for seniority integration, and if so, what is the  
7 remedy.

8 Q. So is this what we referred to as the reasonable best  
9 efforts case?

10 A. Yes, it is.

11 Q. It says that American and TWA didn't use their  
12 reasonable best efforts?

13 A. That's correct.

14 Q. And the grievance itself, if you turn back to page 4,  
15 was filed on September 24, was it not?

16 A. Yes, it was.

17 Q. Can we go to that page? And that is the grievance there  
18 from September 24?

19 A. Yes.

20 Q. Flipping two more pages to page 6, there is an October  
21 18 letter from Captain Arnie Kellen

22 THE COURT: What document is this?

23 MR. KATZ: Same document. Last two pages. Pages 6  
24 and 7.

25 THE COURT: Of 160?

1 MR. KATZ: Exhibit 305, D 305, pages 6 to 7.

2 THE COURT: That is the grievance.

3 Q. Last two pages are the company's denial of the  
4 grievance, correct?

5 A. That's right.

6 Q. And then this was submitted within about a week more to  
7 the system board?

8 A. That's correct.

9 Q. How would you characterize the speed with which this  
10 grievance was processed?

11 A. This was exceedingly rapid compared to most grievances.  
12 This was very expeditious.

13 Q. Do you know what the result of this grievance process  
14 was?

15 A. The final result was that the grievance was denied, the  
16 American Airlines and TWA were found not to have violated the  
17 agreement.

18 Q. That was a ruling by a neutral arbitrator?

19 A. Neutral arbitrator, yes.

20 Q. Let me put that up?

21 THE COURT: That arbitration was under the TWA LLC  
22 labor contract, not under the TWA, Inc., labor contract.

23 THE WITNESS: That's correct, your Honor.

24 Q. I will call that the reasonable best efforts case: That  
25 was power are purchase side by the Air Line Pilots

1 Association using ALPA resources?

2 A. ALPA did pursue that using our resources, yes.

3 Q. Exhibit 50 for identification, please. Tell us what  
4 this document is?

5 A. This is a letter from our Chairman Dillon, executive  
6 vice president, United pilot, and from Jalmer Johnson, and  
7 let me review it a little bit, please.

8 Q. All right. While you are doing it, it is to Bob  
9 Pastore, dated August 29, 2001. Is that correct?

10 A. Yes, it is.

11 MR. KATZ: I would ask for this to be admitted,  
12 your Honor.

13 MR. JACOBSON: No objection, your Honor.

14 THE COURT: Okay. D 50 in evidence.

15 MR. KATZ: Thank you.

16 Q. Turning to the bottom paragraph on the page that is  
17 showing here. Would you explain what Captain Dillon and Mr.  
18 Johnson are telling Mr. Pastore in this paragraph that is on  
19 the screen now, Mr. Woerth?

20 A. Yes. They are explaining the processes that besides,  
21 may have been continuously funded in a separate bucket of  
22 money that was granted and had been continuously since 1988,  
23 to TWA, and now an additional block of money from what we call  
24 the operational contingency fund, a quarter of a million  
25 dollars was granted for use of the TWA.

1 Q. Did you say a quarter of a million dollars?

2 A. Yes. \$251,940.

3 Q. Does it say whether the TWA MEC was over or under budget  
4 at that time?

5 A. The way you access this money is when you already spent  
6 it, you are being replenished. And so with that comes some  
7 rules.

8 And what Kevin Dillon and Jalmer Johnson are  
9 reminding them of, what the flight loss rules are, and that  
10 approval of flight pay loss going forward while they are  
11 using this money under our policy, this applies to everyone  
12 who uses that, this is not unusual for TWA, everyone who has  
13 access to this kind of money has to go through these  
14 processes of getting their flight pay loss approved and Kevin  
15 Dillon and Jalmer Johnson are the two who would be over-  
16 seeing that.

17 Q. Was this a mechanism to see that the TWA MEC got the  
18 financial resources necessary?

19 MR. JACOBSON: Object to the leading form of the  
20 question, your Honor.

21 THE COURT: Say again?

22 MR. JACOBSON: I object to the leading form of the  
23 question.

24 THE COURT: I will sustain that.

25 MR. KATZ: I will rephrase it.



1 Q. What was the purpose of this letter?

2 A. It is two things, I guess, to, they already knew they  
3 had the money but this was, this letter was really required  
4 and we send it to every MEC who ends up with additional  
5 funding under the operations contingency fund to tell them  
6 about the processes, particularly about needing additional  
7 layers of approval.

8 This is a requirement put on everyone who has  
9 access to this additional funding.

10 Q. At this point in time were the TWA pilots cut off from  
11 financial resources by the association?

12 A. No. They had an access to financial resources, these are  
13 just the rules of engagement that apply to everyone, but this  
14 particular type of money, operation contingency fund, they  
15 had other money, major contingency fund money, but this was  
16 separate rules.

17 Q. We are at the end of August now and I think people are  
18 aware that September 11 is around the corner. We understand  
19 the tragedy for the people who were killed and injured as as  
20 a result of the attack. What was the impact, in addition to  
21 that tragedy, on the airline industry?

22 A. Well, the airline industry was catastrophically  
23 affected. Billions of dollars in losses. Thousands upon  
24 thousands of airline employees lost their jobs, many  
25 permanently. Over 20 airlines went into bankruptcy, within a

1 couple of days of 9-11, two of them liquidated right away,  
2 Canada, 3,000, the third larger airline in Canada which we  
3 represented, Midway liquidated within a few days. The  
4 pension plans were lost at the majority of ALPA carriers.  
5 United lost their pension, Delta lost their pension, US  
6 Airways lost their pension. Northwest and Continental had  
7 their pension frozen and modified. Again they are  
8 catastrophic layoffs, a lot of people haven't been recalled  
9 to this day.

10 Q. Specifically with regard to the 22 pilots and the  
11 American pilots, what was the impact on the negotiations that  
12 were then nearing their conclusion, on seniority?

13 A. The normal understanding was that about September 1st  
14 was supposed to be the end of negotiating process, that would  
15 have that had been kind of discussed. It appeared some  
16 progress had been made and they were willing to reschedule  
17 some negotiations for the 13th and 14th of September.  
18 Obviously with September 11, those negotiations were  
19 cancelled but nonetheless with everything else that was going  
20 on, they did make another attempt to negotiate seniority  
21 integration on September 17. I think it was the 17th of  
22 September.

23 And that failed. But obviously there was  
24 tremendous a lot of activity across the industry, every  
25 airline was terribly impacted by this event.

1 Q. And what activities were you engaged in yourself?

2 A. Well, at the beginning right away, the secretary to the  
3 President Bush, secretary Norm Mineta asked me to be on a  
4 rapid response team for aircraft, there was two rapid  
5 response teams to respond to the crisis. The airline  
6 industry was shut down, as you remember, completely for five  
7 days.

8 So I was on that team with Boeing and some FAA  
9 people, Herb Deleher from Southwest had the other team. I  
10 was involved with that. I was involved with trying to get  
11 the airline stabilization act passed. We had proposals to  
12 Congress to get relief for all the airlines, five billion  
13 dollars in cash and ten billion dollars in loan guarantees.

14 But of course I had over 60,000 pilots who were all  
15 afraid for their jobs. We had to wonder how many layoffs  
16 were going to be, we had to redo ALPA's budget, we had our  
17 own employees, I was a pretty busy guy right after 9-11 for  
18 several months.

19 Q. Were there financial implications for the association?

20 A. Well, certainly as pilots were laid off, we would lose  
21 dues income, and we had dwe fixed costs, employee costs,  
22 pension costs, we had to start deciding what we were going to  
23 do as an association with all these losses. I was pretty  
24 sure pay cuts or on their way with this much financial  
25 losses, pay cuts aren't far behind.

1 Q. The jury may not appreciate that ALPA's dues, how are  
2 ALPA's dues calculated?

3 A. ALPA's dues are calculated, it is like, I forgot the  
4 exact number, I think about 1.7 or 1.8 percent of your gross  
5 income is what you pay in dues. So it is not, everybody  
6 doesn't pay the same. The more you make, the more dues you  
7 pay. So about 1.6, 1.7 percent of your gross income.

8 Q. So those people are being furloughed and downgraded and  
9 having downgraded and having their pay reduced what is the  
10 impact on ALPA's dues income?

11 A. It immediately goes down in direct proportion.

12 Q. I would like to turn your attention to exhibit D 51 for  
13 identification, a September 21 letter from I, which is ten  
14 days after the attacks, to all ALPA members and their  
15 families. Can you identify this as a letter you sent on or  
16 about September 21, 2001?

17 A. Yes, I recognize it, yes.

18 MR. KATZ: I ask that it be received in evidence,  
19 your Honor.

20 THE COURT: Any objection, Mr. Jacobson?

21 MR. JACOBSON: No, your Honor.

22 THE COURT: In evidence. D 51.

23 MR. KATZ: Thank you.

24 Q. After the preface you talk about the security task  
25 force, the bottom of the first page?

1 A. Yes.

2 Q. That is an ALPA security task force?

3 A. Yes.

4 Q. And so was that an issue that you were involved in?

5 A. I was involved in an ALPA, as well as the other  
6 governmental process, rapid response team, I was involved in  
7 both.

8 Q. On the bottom of the second page there is a reference to  
9 legislative activities. There is a subheading. What was  
10 going on with the ALPA government affairs department in  
11 September, 2001?

12 A. Many things, including particularly trying to get the  
13 Airlines Stabilization Act actually passed and funded and  
14 getting the money to the airlines and hopefully making money  
15 available through loan guarantees to keep us going until the  
16 airline industry could recover.

17 Q. Turning to the next page, there is a heading of  
18 collective bargaining and ASSOCIATION, administrative and  
19 financial matters. Let's look at the bottom paragraph of  
20 page 3, please.

21 A. The bottom paragraph?

22 Q. Yes, where there is a reference to a third ALPA task  
23 force, examining belt tightening measures. Was that on --  
24 how would you describe that effort at that point in time?

25 A. Well, it was just beginning, but it was, we took every

1 method possible, we were trying to come to terms with what  
2 was going to happen to our employees.

3 We had 500 employees. Would we be able to make our  
4 payroll? What, are we go to go have to lay off people? What  
5 other cuts could we take? Were we go to go have -- we were  
6 looking at every possible thing we might have to do to  
7 preserve the financial credibility and stability of the whole  
8 association. We just really didn't know how bad this was  
9 going to get.

10 Q. At the bottom you say I will also be asking each ALPA  
11 MEC to implement strategies to contain costs, including  
12 seeking company paid flight pay loss, to cover current  
13 negotiating expenses.

14 So was flight pay loss a financial issue for ALPA  
15 at that time?

16 A. Flight pay loss, next to direct employee costs, was our  
17 next highest expense. Flight pay loss is the second highest  
18 expense with the association.

19 Q. So that was a big item?

20 A. That is a big item.

21 Q. The last page, Mr. Woerth, talks about jumpseat. Did  
22 the FAA implement any new restrictions or limitations on  
23 transporting people in the cockpit of airplanes?

24 A. Yes, the FAA put in new rules, more stringent rules.

25 Q. How would that affect an American pilot who wanted to

1 fly in the cockpit of a Delta airplane to get to work?

2 A. Their initial proposal was that you could no longer ride  
3 in the cockpit if you are not employed by that airline.

4 There had to be a seat for you in the back. And at first it  
5 is not mentioned in here they were actually trying to  
6 eliminate all cockpit jumpseats, riding all together. I was  
7 able to stop that when I was on that task force but this was  
8 the new procedures.

9 Q. And I have another letter on a similar line, D 24 for  
10 identification: October 4, 2001 letter you sent to all ALPA  
11 MEC officers?

12 A. Yes.

13 MR. KATZ: I ask it be received in evidence.

14 MR. JACOBSON: No objection.

15 THE COURT: D 24 in evidence.

16 MR. KATZ: Thank you.

17 Q. And does this letter deal with some of the financial  
18 applications of the crisis hitting the airline industry at  
19 that time?

20 A. Yes, it does.

21 Q. I am not going to ask you to go through it all. In the  
22 middle of the pairs page there are reductions of over \$10  
23 million in ALPA MEC budgets that is listed?

24 A. That's correct.

25 Q. What is A and S budget where there is a reduction of

1 17.4 million?

2 A. Administrative and support account. That is shorthand  
3 for that, that is the national account. That is the national  
4 budget as compared to the local MEC budgets.

5 Q. Returning to page 3, there is a reference to the major  
6 contingency fund?

7 A. Yes. In the first paragraph it talks about the purposes  
8 for which this war chest is to be used.

9 A. Yes.

10 Q. Are you familiar with these policies?

11 A. Yes, I am.

12 Q. What purpose is the major contingency fund to be used  
13 for?

14 A. Non-normal, war chest type savings account for  
15 negotiations, strike preparations, family awareness. Pilot  
16 to pilot projects.

17 Q. Communications activities. Would that be generic?

18 A. In line with negotiations, strike preparation, family  
19 awareness, yes.

20 Q. Would you blow up the recent events paragraph, please?

21 In the middle of that paragraph it says the executive council  
22 at its meeting this week directed Captain Feldvary and Mr.  
23 Johnson to review and wind down all spending activities  
24 currently being funded by the MCF. Was that your  
25 recollection that that happened?



1 A. Yes.

2 Q. That was an effort to preserve ALPA's financial  
3 condition?

4 A. That's correct.

5 Q. All right. In particular reference to the seniority  
6 integration negotiations between the TWA and the American  
7 pilots, what additional implications were there for those  
8 talks?

9 A. My understanding by October 4, is that the time line you  
10 are referencing?

11 Q. Yes, sir.

12 A. That those talks had concluded. I was unaware of any  
13 more talks attempted to be scheduled, but I was aware that  
14 Jeff Brundage was, was vice president of American Airlines  
15 labor relations, was directed to try to get something done.  
16 So he was reaching out. I didn't know at that point, on  
17 October 4, what was happening, but I knew he was attempting  
18 to.

19 Q. All right. I would likes to show you for identification  
20 exhibit D 200 which is a letter from Mr. Brundage dated  
21 October 12, 2001. Did you receive that letter on or about  
22 that date?

23 A. Yes, I did.

24 MR. KATZ: I would ask that exhibit D 200 be  
25 received in evidence, your Honor.

1 MR. JACOBSON: Your Honor, I believe this is  
2 hearsay.

3 THE COURT: Let me look at it.

4 THE COURT: What is your basis, Mr. Katz, for  
5 admitting this?

6 MR. KATZ: Your Honor, we are not asking for it to  
7 be admitted for the truth of the matters asserted by Mr.  
8 Brundage in the letter.

9 THE COURT: You really are, though.

10 MR. KATZ: No, we are asking it to be admitted for  
11 Mr. Woerth's response.

12 THE COURT: He is telling Captain Woerth, Brundage  
13 is, who is an American, now an AA executive, American  
14 airlines executive, to put pressure on the TWA merger  
15 committee to meet. He is alleging time is running sort. It  
16 is offered for that.

17 MR. KATZ: The witness's communications with  
18 executives at TWA and American as well as the TWA MEC  
19 affected how he responded to events during the month of  
20 October. That is why we are offering it, your Honor.

21 THE COURT: Well --

22 MR. JACOBSON: Your Honor, I add that it is hearsay  
23 within hearsay. He is reporting what supposedly is told to  
24 him by other third parties, what was told to them by fourth  
25 parties.

1 MR. KATZ: It nevertheless formed the basis for  
2 this witness's actions later in the month.

3 THE COURT: Ladies and gentlemen of the jury, I am  
4 going to admit exhibit 200.

5 But I want to emphasize to you, I am not letting it  
6 in for the truth of what the writer of this letter says, Mr.  
7 Brundage. He says a lot of things about the TWA MEC. I want  
8 to make it clear I am not offering -- I am not accepting it,  
9 excuse me, because anything he says is true. I am accepting  
10 it only because it is what Captain Woerth was told, and he  
11 can testify as to how he reacted to it, or whether he  
12 believed it.

13 But I am not offering it, I am not accepting it,  
14 what is in here from American Airlines as to the truth.

15 Do you understand what I am getting at, only to  
16 show what reaction he might have had? I will let it in on  
17 that basis.

18 MR. KATZ: Thank you, your Honor.

19 Q. Mr. Woerth, you read this letter when you received it?

20 A. Yes.

21 Q. Did you take any related actions to communicate with  
22 officials of American Airlines, TWA, or the TWA MEC to learn  
23 what was going on in October with regard to the seniority  
24 negotiations?

25 A. Yes, I did.

1 Q. Would you describe those efforts, please?

2 A. After October 12, letter, I had already been told by the  
3 phone call or something that the meetings were trying to be  
4 held, but were cancelled. I was all fairly confused by what  
5 the truth of the matter was. I got Brundage's letter which  
6 he says, that he had had meetings on October 8, with the  
7 understanding that there would be an agreement, and they  
8 would come to Dallas the next day to do that. Instead, they  
9 did not come.

10 Q. Who did not come?

11 A. The TWA MEC, or merger committee did not come, but Bob  
12 Pastore came instead. And that is all a matter of  
13 confidentiality and they were not going to meet with  
14 American, and I was, so after that call I tried to ask Bob  
15 Pastore what was going on and he gave me some explanation.

16 Q. What did he say?

17 A. He said that yes, there had been meetings, but he had  
18 gone to Dallas and the MEC wasn't able or willing to meet  
19 with Brundage on this matter. So I didn't get a clear  
20 explanation, but it was an acknowledgement that there had  
21 been meetings, the meeting in Dallas was attended by Bob  
22 Pastore but not by anybody else, and that is about all I  
23 actually gleaned from that initial investigation.

24 Q. Did you talk to any executives at TWA?

25 A. I had called, at this time I asked, you called Bill

1 Compton who was the CEO, and asked if he was aware what was  
2 going on.

3 He said he was, that he had assisted Brundage in  
4 some regard trying to save, in his words, save this deal so  
5 we could get a negotiated settlement rather than a contract  
6 of seniority imposition by American, and APA which they  
7 reported to me that it was imminent, that sometime within the  
8 next ten or 20 days APA and American were just going to  
9 impose their will and that would be the end of it. They are  
10 hoping to get a three-party agreement that they could reach  
11 an agreement that the TWA MEC would agree to, that we could  
12 have, be a part of the agreement, to provide extra protection  
13 for the TWA pilots.

14 Q. What was your view of the best course of action to  
15 protection the TWA pilots?

16 A. My view was to try to entice the best possible offer you  
17 could from American and to re-engage in negotiations, and to,  
18 in this letter they also talk about efforts to have  
19 legislation that Mr. Carty had found out about and was very  
20 angry about and actually threatened to walk away from the  
21 transaction.

22 That had been confirmed to me, Norm Mineta, the  
23 Secretary of Transportation, this is all happening at the  
24 same time, Mr. Carty was very angry about an attempt for  
25 legislation and that I wanted the TWA MEC to re-engage and I

1 talked to Brundage and through our attorney to sweeten their  
2 offer, to put more on the table, give some extra protection  
3 for seniority for TWA pilots, protect the St. Louis domicile  
4 specifically. This was kind of a last-ditch effort to try to  
5 get a negotiated settlement.

6 Q. Did you say that you improved, you asked the other side  
7 to improve their offer?

8 A. Yes, I did.

9 Q. Did you say you talked to the secretary of  
10 transportation, Norman Mineta?

11 A. Yes, I did.

12 Q. When was that conversation?

13 A. Well, there were several conversations. I was in  
14 constant contact with the Secretary of Transportation because  
15 of the events of 9-11 but on this specifically, the last one  
16 was really, near the end of October, the 21st or 22nd of  
17 October, but I talked to him probably every two or three  
18 times a week in the weeks leading up to this.

19 Q. What did you say to him about the TWA pilots?

20 A. I told him, he was mostly a one-way conversation, that  
21 he was totally aware, he is the Secretary of Transportation,  
22 I was completely interested. His son was a TWA pilot. He  
23 was not unaware of what was going on. The Secretary of  
24 Transportation had a son at TWA. Rob Brantner I think was  
25 his name.

1           And, but he was afraid that American was about to  
2           just do what they wanted to do with APA and just move on to  
3           other subjects, that the events of 9-11, it was time to just  
4           end the negotiation, not walk away from the transaction, but  
5           impose their seniority list and just be done.

6           THE COURT: They couldn't walk away from the  
7           transaction, it was already closed.

8           A. No, he wasn't talking about walking away from the  
9           transportation. He is you talking about just giving an  
10          imposed seniority list, reaching an agreement with APA and  
11          American and just be done. That was the advice I got from  
12          the Secretary of Transportation. And that the government was  
13          not going to intervene or stop the transaction, or put  
14          pressure on Mr. Carty. We were done now.

15          Q. That is what Mr., Secretary Mineta told you?

16          A. Secretary Mineta.

17          Q. Why did you view the imposition of an agreement between  
18          APA and American as less desirable for the TWA pilots?

19          A. The way American, this is a common par gaining practice,  
20          they had suite end the offer, but only with agreement, in  
21          other words, they added additional things, additional  
22          seniority protection, they created a special, what they call  
23          it the St. Louis cell, that the St. Louis, where the TWA  
24          pilots were domiciled would be given extra protection,  
25          special seniority about that.

1 But the most important one was that even in its  
2 environment after post 9-11 when the whole world was  
3 collapsing and shrinking and nobody knew where the bottom  
4 was, that the St. Louis domicile did not shrink more than 25  
5 percent in proportion to the greatly domiciles of any of the  
6 rest of them, Chicago and Dallas, so that give a special  
7 protection for the TWA pilots who were domiciled in St.  
8 Louis.

9 So that, and a few other things, and furlough  
10 protection were only available if they agreed. If they did  
11 not agree, they were going to withdraw those and impose a  
12 worse deal.

13 So I was focusing on attempting to get the maximum  
14 deal, and my judgment was the maximum deal was that deal.  
15 The sweetened deal.

16 Q. I would like to show exhibit D 88 which is in evidence.  
17 These are minutes from the TWA MEC meeting dated October 20  
18 to 22, 2001.

19 MR. JACOBSON: I am sorry. Which exhibit number?

20 MR. KATZ: D 88 in evidence.

21 Are you familiar with the special MEC minutes  
22 October 20 to 22 at Washington, D.C.

23 A. Yes.

24 Q. That is the one at the Mayflower Hotel?

25 A. Yes.



1 Q. Is this the meeting at which the protections you were  
2 referring to in your last answer were offered by the  
3 representatives of American Airlines and the APA?

4 A. They may have been offered earlier but they were  
5 certainly being discussed here.

6 Q. Turning to the end of this exhibit. On the last page  
7 there was an MEC discussion with Jeff Brundage. Counter  
8 proposal was not acceptable. Rautenberg and Lewin moved to  
9 accept the terms as described by David Holtzman and it  
10 failed. Is this something that was referenced in your last  
11 answer?

12 A. Yes.

13 Q. Would you explain the specifics of that, please?

14 A. The better offer with increased protection was  
15 available, but only if they agreed to it. They are about to,  
16 at least they alleged they were about to reach an agreement  
17 with American, with all those sweeteners missing. In other  
18 words, a worse seniority integration, no special cell for St.  
19 Louis, no restrictions on the sweetener of St. Louis. And  
20 that was the terms. And they voted that down.

21 Q. So there were protections that were offered by American  
22 Airlines in the area of furloughs. Is that what you are  
23 saying?

24 A. Yes.

25 Q. In the area of the size of the St. Louis protective

1 cell?

2 A. Yes.

3 Q. And how would you rate those on a scale of zero to 100  
4 as of October, 2001?

5 A. Well, especially in that context, within six or eight  
6 weeks of 9-11, when there were furlough notices everywhere,  
7 nobody knew where the bottom of the industry was going to be,  
8 I thought on a scale of one to a hundred that had to be at  
9 least an 85, trying to get special protections for your  
10 pilots in St. Louis where they were all domiciled.

11 Q. So you thought those protections were important?

12 A. I thought they would prove to be very important.

13 Q. What was your reaction to the TWA MEC's failure to  
14 accept them?

15 A. I was disappointed for the TWA pilots. I thought the  
16 best course of action was not selected. I disagreed with  
17 the decision.

18 Q. Turning back in this exhibit, two pages, to page 14, I  
19 would like you to blow up the portion at 14:31, 2:31 in the  
20 afternoon?

21 THE COURT: What document is this?

22 MR. KATZ: D 88.

23 THE COURT: Still on D 88.

24 Q. On page 14, at the time, 1431, it says discussion with  
25 Duane Woerth via phone. It looks like it only lasted four

1 minutes, Mr. Woerth. Is that your recollection of it being a  
2 short conversation?

3 A. It was a pretty short conversation, yes.

4 Q. They noted that you discussed the recent proposal, and  
5 other options available to the MEC if they decide not to  
6 accept the deal.

7 And would you tell us what you can recall of that  
8 discussion.

9 A. Again, it was a very short discussion, and I gave them  
10 my honest opinion that I thought in my view American, and the  
11 APA would not sweeten their offer further and instead would  
12 impose a worse deal and they would do it fairly soon, if not  
13 that day, within a very short period of time. They expressed  
14 that they would rather, they wanted me to sue, to enter into  
15 litigation, and I told them that I had no basis for a  
16 lawsuit.

17 We had filed a grievance. That was the legal  
18 remedy under the Railway Labor Act, when you have a  
19 contractual problem with the Railway Act, you file a  
20 grievance. That is what we did and it had lost.

21 Q. Is that referring to the recently best efforts  
22 grievance?

23 A. Yes.

24 Q. That was still pending at that time?

25 A. It was pending, but we were doing the strategy we could

1 do and should do.

2 Q. Did you explain anything about why you felt the proposed  
3 litigation was a poor choice?

4 A. There are a lot of reasons. First of all, I didn't see  
5 a basis for litigation. I take litigation very seriously. I  
6 was never convinced there was a legal basis in this venue,  
7 another court, to sue.

8 Q. You told that to the --

9 A. I told that to TWA. I reminded them that we were suing  
10 another union which I didn't have a problem with if if we had  
11 a legal hook, but that APA had the exclusive bargaining  
12 rights with American. And I didn't, I couldn't intervene on  
13 that any more than I could with the firefighters, a  
14 construction union, a teachers union. It wasn't my union.  
15 And it wasn't the company I represented. They were  
16 exercising their rights to enter their contract the same way  
17 we were. They were about to do just that.

18 And I saw, I was never convinced there was a legal  
19 strategy that would work and exactly might back fire at this  
20 moment. Again, I want to keep in context six or seven or  
21 eight weeks after 9-11. Both a legislative strategy, what  
22 became known as the Bond bill, trying to get back in  
23 arbitration what they agreed to waive, and trying to sue to  
24 get an arbitration they agreed to waive, they may have not  
25 taken Mr. Carty's threat that he would sell the assets and

1 liquidate TWA LLC. I took it seriously. And I thought it  
2 was a risk not worth taking. That was my risk reward  
3 judgment. And I gave them the benefit of my judgment.

4 They disagreed with that.

5 Q. And what did you say at the bottom line with regard to  
6 the proposal that you initiate litigation on behalf of the  
7 Air Line Pilots Association?

8 A. I reiterated I didn't have a basis to do that. They had  
9 their rights, even though I disagreed with what they were  
10 doing, I didn't see a legal remedy and I would not institute  
11 litigation. I was very clear I would not. They were going  
12 to be faced with a judgment to either accept it or not  
13 judgment, but I was not going to sue.

14 MR. KATZ: Thank you, Mr. Woerth. We have been  
15 going quite a while now. I have a little bit left. I would  
16 like to suggest a break at this point.

17 THE COURT: Ladies and gentlemen, we will take a  
18 15-minute break, until 20 of 1. 20 of 1.

19 (The jury leaves the courtroom.)

20 (Recess)

21 (Jury enters the courtroom.) (. )

22 DUANE WOERTH, resumes.

23 CONTINUED DIRECT EXAMINATION.

24 BY MR. KATZ:

25 THE COURT: Mr. Katz, you may continue.

1 Q. Mr. Woerth, I have written on this board I have been  
2 keeping track of some of the highlights of the assistance  
3 ALPA provided and you provided to the TWA pilots. I have  
4 written October 23 advice to the MEC, which you just  
5 described in your last testimony before we took a break.

6 What I would like to ask you about now is since the  
7 transaction had been consummated, that is American had  
8 acquired these assets of TWA and made the TWA pilots  
9 employees of TWA LLC, what was the fear that you expressed,  
10 what was the concern that you expressed to the TWA MEC? What  
11 was the downside?

12 A. The downside still in October?

13 Q. Yes, sir.

14 A. The downside is that TWA LLC was still their employment  
15 vehicle. They are not integrated at this time. They were  
16 not American employees. Single carrier status had not  
17 occurred, that there was still, September 11 and all the  
18 implosion of the airline industry, that I thought they were  
19 still at risk from some second doubts from the board of  
20 directors of American, from Carty himself, and their primary  
21 concern to preserve their relationship with APA and their own  
22 union, not so much with the TWA employees. I felt they still  
23 had a certain amount of risk, a measurable risk at that time  
24 to getting the ultimate goal, getting all the way into  
25 American and be an American employee which with was not

1 complete.

2 THE COURT: However, in LLC they were getting  
3 American wages, weren't they?

4 THE WITNESS: I don't think they were at that time  
5 yet.

6 THE COURT: They had single carrier status?

7 A. I don't know when that occurred. I know it was later, I  
8 am not sure of the date.

9 MR. KATZ: We will have a witness on that, your  
10 Honor.

11 THE COURT: Okay.

12 Q. Have you seen in the past situations where one holding  
13 company owned more than one airline?

14 A. Yes, I have.

15 Q. What have the risks been associated with that condition?

16 A. They often take work from one operation and move it to  
17 another operation. That appeared at Eastern, Continental, it  
18 happened before, it is still happening.

19 Q. In in October, 2001, was that a fear that you expressed  
20 to the TWA MEC?

21 A. Yes.

22 Q. All right. I have also written on the board Bond bill  
23 support. You mentioned in your last testimony about the  
24 legislation. Would you tell us what was going on with that,  
25 please?

1 A. Yes. In October, early October, I was advised by our  
2 government affairs officer, ahead of our government affairs,  
3 that the TWA pilots would like and had met with Senator Kit  
4 Bond and other Missouri representatives in the house to  
5 introduce legislation that kind of attaches to a defense  
6 appropriations bill, as I recall, and if it got through that  
7 way, it would become law. So they are attaching a special  
8 provision to a defense appropriation.

9 And although I thought there was some risk with  
10 this, and I was supportive and sent letters to both Senator  
11 Bond and I think his equal in the House of Representatives on  
12 this committee to support it.

13 Q. I would show you for identification exhibits D 94, and D  
14 165.

15 THE COURT: D 94, and D 165.

16 MR. KATZ: Yes, sir.

17 THE COURT: Okay.

18 Q. Are these the letters to which you just referred?

19 A. Yes. The letter to Senator Kit Bond and a letter to  
20 Congressman Jerry Lewis.

21 Q. They are dated October 3, 2001 and December 10, 2001?

22 A. Yes.

23 MR. KATZ: I ask that they be received in evidence.

24 MR. JACOBSON: I haven't received a copy of the  
25 Lewis letter.



1 MR. KATZ: It is part of the package I gave you  
2 earlier.

3 THE COURT: Let's take D 94 first. Any problem  
4 with that?

5 MR. JACOBSON: No, no problem with D 94, your Honor.

6 THE COURT: Okay. So now D 94 is in evidence.

7 MR. KATZ: Thank you, your Honor.

8 THE COURT: Let's see the other one. D 165.

9 MR. JACOBSON: Did he testify he sent this letter?  
10 I missed that.

11 MR. KATZ: Yes, he did.

12 MR. JACOBSON: Then no objection.

13 THE COURT: Okay. Then D 165, which is a letter to  
14 representative Jerry Lewis. You have to be my age to get a  
15 chuckle out of that. But that is in evidence as well.

16 Q. And are these the letters in support for the legislation  
17 that you mentioned?

18 A. Yes, they are.

19 Q. And what was your view of the legislation? Let me ask  
20 you this way: What was your view of having prospects of  
21 having this enacted?

22 A. My view of the prospects were that, I might characterize  
23 it as a Hail Mary pass a little bit because of the technique,  
24 but it has worked before. This technique has worked before  
25 when you, you slip a provision in a bill, that most people

1 don't know it is there, I thought the way it was going to  
2 pass if Senator Bond got it in and with all the other  
3 activity in the Senate, a lot of his fellow senators didn't  
4 realize it was there and did not object, and as I knew for  
5 certain that if the Texas delegation, American's delegation  
6 in Texas found out about it, they would take it out.

7           If it wasn't introduced in the house yet, that you  
8 would have to assume that the conferees, when they got  
9 together, the House bill and Senate bill, they would not  
10 object and somehow get it through a conference and get it to  
11 the President. I understood why TWA wanted to take a shot,  
12 as remote as it was, and I supported them in their effort.

13 Q. Did you advise representatives of the TWA pilots of this  
14 stealth strategy?

15 A. They were, I only really talked to Bob Pastore and I  
16 told -- he understood what we were trying to do. But it had  
17 to be, it would only be successful in my view, my judgment  
18 and the judgment of the people advising me on government  
19 affairs, that it really had to be a quiet strategy. The more  
20 it was known, the least likely it would be successful.

21 Q. And what actually happened?

22 A. Well, what actually happened, I think understandably the  
23 very enthusiastic TWA pilots took it upon themselves to go on  
24 the Hill and it was pretty well known and put out a lot of  
25 publication, actually, for what was going on and solicited

1 additional support.

2 Q. And what was the reaction of American and the Allied  
3 Pilots Association?

4 A. They were apoplectic. They were extremely angry, and I  
5 heard more from Mr. Carty who saw Mr. Bond on I believe on  
6 October 11. He was exceedingly angry, and I guess you would  
7 say, the report I got from, was that he threatened that if  
8 this happens, he would --

9 MR. JACOBSON: Objection, your Honor, I believe he  
10 is going to hearsay now.

11 THE COURT: Yeah, I am going to sustain that  
12 objection.

13 Q. Did you have a conversation with Mr. Carty yourself, Mr.  
14 Woerth?

15 A. No, I did not.

16 Q. All right. What was the progress of the bill? I think  
17 there has been testimony about it already. But do you recall  
18 how the bill progressed through the Congress?

19 A. My recall, my recollection is that it moved along, it  
20 took a long time to try to progress all the way through the  
21 end of the year, but that, as I suspected --

22 THE COURT: First, it passed the Senate almost  
23 without objection, didn't it? It passed. It actually was  
24 adopted.

25 A. It was adopted by the Senate.

1 THE COURT: When they adopted the defense bill they  
2 picked up the tag-along, right?

3 THE WITNESS: I absolutely don't have a clear  
4 recollection how it was finally disposed of, your Honor.

5 Q. Let me show you exhibit D 172 for identification. Is in  
6 a TWA --

7 THE COURT: I am sorry, what is it?

8 MR. KATZ: D 172, your Honor.

9 THE COURT: D 172. Okay. Go ahead.

10 Q. Is this a TWA MEC information update dated December 19,  
11 2001?

12 A. Yes.

13 Q. From a pilot at TWA named Glenn Stieneke.

14 A. Yes.

15 Q. And he was the chairman of the TWA pilots communication  
16 committee?

17 A. Yes.

18 MR. KATZ: I ask that it be received in evidence,  
19 your Honor.

20 MR. JACOBSON: No objection.

21 THE COURT: There being no objection, go ahead.

22 Q. If you look at the second paragraph on Tuesday, December  
23 18, the joint conference committee passed the finalizing the  
24 language for the House and SENATE version. Met for a very  
25 short session. The bill was removed. Does this refresh your

1 recollection that the --

2 A. I always knew that, the ultimate outcome that it was  
3 removed. I didn't know the timeframe. Now you are  
4 refreshing my memory of what time that actually happened, in  
5 December.

6 THE COURT: That happened in the joint conference  
7 meeting between the House and the Senate, didn't happen in  
8 the, in the Senate it passed --

9 THE WITNESS: That's correct.

10 Q. The next paragraph in the middle of the paragraph,  
11 Captain Stieneke says, blow up the middle paragraph, Brian.  
12 We wish to thank Senator Bond, Carnahan and others for their  
13 efforts to date. Furthermore, we would like to express our  
14 gratitude to our own Legislative Affairs Committee, and ALPA  
15 Government Affairs for their support and guidance in pushing  
16 this proposed legislation forward.

17 Did you see that at the time?

18 A. Yes.

19 Q. And you agree with this appreciative comment of Captain  
20 Stieneke?

21 A. I appreciate it, we tried, and it didn't work.

22 Q. Was there, despite the proposed legislation, was there  
23 nevertheless another opportunity for consideration of  
24 agreement?

25 A. After the October MEC meeting?

1 Q. Right, right.

2 A. Yes. I had implored through Jeff Brundage, American and  
3 APA pilots, not to reach an agreement, and try at least one  
4 more time to give us another chance to vote on a superior  
5 agreement, the one that was rejected previously in October by  
6 the TWA MEC.

7 Q. And can you tell us what happened with regard to that  
8 effort?

9 A. A meeting was called for December 7. By that time there  
10 was only two representatives left --

11 Q. You said December 7.

12 A. I said November 7, I meant to say November 7.

13 Q. Thank you.

14 A. I apologize. November 7 of 2001. And by that time, the  
15 MEC, which used to have six members, was down to two. The  
16 West Coast base and the East Coast base were closed, so now  
17 all the votes were consolidated into two people.

18 Q. All the pilots were placed in St. Louis?

19 A. All the pilots were based in St. Louis. Captain Steve  
20 Rautenberg and First Officer Young were the only two  
21 representatives who represented all the pilots. So now if  
22 there is another vote, two people would make the decision.  
23 So the meeting was called, and for November 7, by Captain  
24 Pastore.

25

1 Q. And what happened at the meeting?

2 A. At the meeting, Captain Rautenberg, who wanted to agree  
3 to take the sweetened deal and make a deal with American for  
4 the enhanced protection, moved to do just that. At that  
5 Sally Young would not second the motion, and so they called  
6 the SECRETARY of the association, Jerry Mugerditchian and our  
7 legal counsel, for an interpretation of the rules.

8 Could Sally Young object and simply prevent a vote,  
9 and the advice they got through our secretary who was in  
10 charge of this, vice president of administration, Captain  
11 Mugerditchian along with advice of counsel, was that they  
12 could not. You could not stop a vote just because you don't  
13 agree.

14 You would have to at least second the most of what  
15 and a vote would occur. That is what they were advised.  
16 Captain Pastore, who was the chairman of the meeting,  
17 discarded that advice and did not allow a vote and the  
18 meeting adjourned without a vote.

19 Q. I would like to show you J 24 for identification.

20 THE COURT: Before do you that, it is sort of  
21 academic, because the vote would have been one, one.

22 THE WITNESS: No, your Honor. It was not academic.  
23 If it had been a roll call vote and Steve Rautenberg had more  
24 votes. Steve Rautenberg would have won. There would have  
25 been a contract.

1 Q. J 24?

2 THE COURT: J 24.

3 MR. KATZ: Yes, sir.

4 THE COURT: I assume there is no objection to J 24.

5 MR. JACOBSON: No, I am just looking for it.

6 THE COURT: Excuse me.

7 MR. JACOBSON: I found it. There is no objection.

8 THE COURT: The first page.

9 Q. It is a one pager.

10 THE COURT: It is a letter from Mugerditchian to  
11 Pastore.

12 MR. JACOBSON: Yes, your Honor.

13 THE COURT: Okay. That is in evidence.

14 MR. KATZ: Thank you, your Honor.

15 Q. Mr. Woerth, is this the letter that was sent by Captain  
16 Mugerditchian to Captain Pastore during the MEC meeting that  
17 captain pastor called for November 7, 2001?

18 A. Yes, it is.

19 Q. And Captain Mugerditchian advises that you don't need a  
20 second if there are only two members of the MEC?

21 A. That's correct.

22 Q. What would happen if you required a second if there were  
23 only two members on the MEC?

24 A. You could conduct no business. If somebody decided they  
25 wanted to have a discussion, they could stop it individually



1 all the time.

2 Q. So the minority could block --

3 A. The minority could block the role of the majority at  
4 every moment. The basis of that is that they didn't have  
5 equal votes.

6 THE WITNESS: That's correct.

7 THE COURT: It was based on the number of pilots  
8 they represented.

9 A. Yes.

10 THE COURT: Go ahead.

11 Q. When that effort failed, what happened with American  
12 Airlines and the Allied Pilots Association with regard to the  
13 seniority integration?

14 A. I think in a very short period of time after that, I am  
15 not sure how many days, but they entered into their own  
16 agreement without the special protections so as as they said  
17 they would, they would not give them special protections.  
18 They did not get additional furlough protection. They did  
19 not get a St. Louis cell. They lost significant protection  
20 with TWA pilots and that is what they imposed.

21 Q. You said they didn't get a St. Louis cell. They had a  
22 cell but it wasn't as strong as it could have been?

23 A. That's correct.

24 Q. Did you in fact view the seniority integration agreement  
25 with the TWA pile, that the TWA pilots ultimately got as the

1 best that was potentially there?

2 A. No, I did not. I thought the deal that was available  
3 that they re directed with enhanced protections of the St.  
4 Louis cell, additional furlough protection, was a better deal  
5 for TWA pilots. So the better deal was not achieved.

6 Q. So the TWA MEC members, some of them walked away from  
7 significant job protections?

8 A. Yes.

9 MR. JACOBSON: I think that is leading.

10 THE COURT: That is a leading question, if that is  
11 your objection, and I am going to sustain it.

12 Q. Was there anything that you could have done, Mr. Woerth,  
13 or anything that ALPA could have done, that would have gotten  
14 a better deal for the TWA pilots?

15 A. I do not believe so. They had the final decision.  
16 Their elected leaders had to had the final decision and they  
17 made it.

18 MR. KATZ: Thank you. That completes our  
19 examination.

20 THE COURT: Mr. Jacobson, Ms. Rodriguez, who will  
21 do it?

22 MR. JACOBSON: I will do it.

23 THE COURT: Mr. Jacobson, you are on for cross  
24 examination.

25 MR. JACOBSON: Thank you, your Honor.

1 CROSS EXAMINATION

2 BY MR. JACOBSON:

3 Q. Mr. Woerth, I want to go through some of the things you  
4 said and some additional items as well.

5 You indicated that your interactions with the  
6 American company or the American pilots helped bring about a  
7 facilitation agreement. That is correct?

8 A. I believe I helped. I know I wasn't the only one who  
9 suggested this.

10 Q. And when do you think you did that, sir?

11 A. First it was in an April fifth meeting with the American  
12 pilots was the first time I suggested a facilitator.

13 Q. You suggest that on April 5 that they get a facilitator  
14 and you believed that helped give rise to facilitation?

15 A. I do.

16 Q. Were you aware that American Airlines had promised, in  
17 the best efforts, reasonable best efforts letter, that was  
18 the basis for the April 2 waiver of scope, that it would  
19 exercise its reasonable best efforts, including hiring a  
20 facilitator?

21 A. I was aware but I wasn't sure if they got around to  
22 doing it at this point.

23 Q. That was before the comments you made at the APA?

24 A. Right.

25 Q. You also indicated that you believe that your efforts

1 with the APA caused them to not staple all of the TWA pilots  
2 to the bottom of the list. Is that correct, sir?

3 A. That wasn't the only consideration, but I think I helped  
4 that.

5 Q. All right. When do you think did you that, sir?

6 A. The first time I talked to John Darrah which was right  
7 after the transaction was announced and then again in April.

8 Q. When did you think that you persuaded them that they  
9 shouldn't staple everyone?

10 A. I am not sure if that was the only persuading person but  
11 I made that argument. I am not sure when they made their  
12 decision. I think it might might have been before that.

13 Q. You don't know when that was?

14 A. No, I don't know when it was.

15 Q. He we talked about the major contingency fund. That is  
16 a pool of money roughly 70 million in cash, 20 million in  
17 property, that ALPA tries to maintain for major contingencies  
18 like strikes and the like, correct?

19 A. Yes.

20 Q. All right. And you viewed that this proposed merger  
21 between TWA and a nonALPA carrier, the acquisition of assets,  
22 however you want to characterize it, that would be something  
23 that would come within the major contingency, correct?

24 A. I know TWA had been given multiple grants of the major  
25 contingency fund dating back to 1988.

1 Q. My question is, is it your view, are you telling the  
2 jury here, that the proposed acquisition of the TWA assets by  
3 American was the type of contingency that would allow the TWA  
4 pilots to receive an award of major contingency funds?

5 A. I think I would have to see what what the executive  
6 board decided. If there was a resolution, if the executive  
7 board passed it, that was a decision of ALPA I don't have  
8 control of the major contingency fund.

9 Q. The reason why I am asking is you said numerous times  
10 today during your testimony that TWA pilots, their MEC, had  
11 been given substantial moneys from the major contingency fund  
12 in connection with this, with their negotiations with the  
13 APA. Do you recall saying that, sir?

14 A. They do.

15 Q. All right. And there is a process in place before major  
16 contingency fund money can be awarded to an MEC. Correct?

17 A. That's correct.

18 Q. And that process includes a resolution being passed by  
19 oh governing board?

20 A. That's correct.

21 Q. And that is the executive council?

22 A. Executive council recommends to the executive board.

23 Q. So the executive council has to recommend that, and that  
24 is in writing, correct, sir?

25 A. That would always be in writing.

1 Q. Then the executive board has to pass that, right?

2 A. That would be true.

3 Q. And that resolution is also reflected in writing?

4 A. If it passes in writing, of course.

5 Q. Now, you have said here many times that the TWA pilots  
6 were receiving this major contingency fund money in  
7 connection with the American Airlines pilots?

8 A. I did not say it was in connection with the American  
9 airline pilots. It had been continually in the major  
10 contingency fund since 1988.

11 Q. Did they receive any award of major contingency money in  
12 2001?

13 A. I don't believe they did.

14 Q. Did they receive any major contingency funds in 2002?

15 A. I don't think any were requested until we were are  
16 almost done with the entire process.

17 Q. Is your answer no, they did not receive any in 2002?

18 A. That's correct, the answer is no.

19 Q. So when you saying how they are receiving this major  
20 contingency fund money, you are talking about money that may  
21 have been paid to them before the American deal came up on  
22 the screen?

23 A. Yes.

24 Q. All right and that money is supposed to be spent on  
25 whatever that particular project is, right?

1 A. That's correct.

2 Q. It is not a slush of money, here is money, spend it on  
3 whatever you want?

4 A. That's correct.

5 Q. So any major contingency fund money they may have been  
6 awarded in connection with the second bankruptcy, that money  
7 could not be applied to the American Airlines negotiations?

8 A. That's correct.

9 Q. Now, you talked, you began your testimony talking about  
10 the phone call you received from Mr. Compton, roughly around  
11 the time that the American Airlines acquisition was  
12 announced. Correct? Do you remember that?.

13 A. Yes, sir, I do.

14 Q. And you said that Mr. Compton told you that he was very  
15 excited that he had negotiated this deal, and that he was  
16 mortified that he could not make pension contributions?

17 A. Mortification would have been in the November phone  
18 call when he alerted me what he was seeking, it was not in  
19 January.

20 Q. Focus on the first conversation at that time. Now, Mr.  
21 Compton, you said, had been your contemporary, he was an MEC  
22 chairman while you were an MEC chairman?

23 A. That's correct.

24 Q. He went into the company, became vice president of  
25 operations of TWA?

1 A. Yes.

2 Q. And then board of directors?

3 A. Yes.

4 Q. And CEO?

5 A. Correct.

6 Q. In your conversations with Mr. Compton, did he tell you  
7 anything about the work that the TWA board of directors were  
8 doing on a stand alone plan for the company?

9 A. He advised me that they advised, that, at every single  
10 opportunity, looked at every opportunity, he saw no other  
11 viable opportunity except for sale. They had all been  
12 investigated and none found viable.

13 Q. All right. Did he tell you at or around the time that  
14 the TWA acquisition of American, that the board of directors  
15 were ready --

16 THE COURT: You mean the other way around.  
17 American's acquisition of TWA.

18 Q. If I said it backwards, then I am sorry?

19 THE COURT: You said it backwards.

20 Q. I am sorry. In that early January timeframe, January 9,  
21 January 10, whenever it was you had that conversation, did he  
22 tell you that the board of directors of TWA had to prepare to  
23 remove him as TWA's direct CEO and replace him with a turn-  
24 around firm and they had financing in place with Boeing to do  
25 stand alone?



1 A. No, they did not.

2 Q. They didn't disclose that to you?

3 THE COURT: The answer is no?

4 A. The answer is no.

5 Q. Now, we talked about, the Reno acquisition and the APA  
6 wildcat strike as you called it?

7 A. Yes.

8 Q. And the 45 million dollars that they were required to  
9 pay.

10 A. Yes.

11 THE COURT: They meaning APA, Allied Pilots  
12 Association.

13 Q. To American Airlines?

14 A. Yes.

15 Q. And certainly having a 45 million dollars obligation  
16 over your head puts you in a position where you are not as  
17 strong vis a vis the person who has that right, correct?

18 A. I wouldn't want to have to pay 45 million dollars.

19 Q. American Airlines has some leverage with APA as a result  
20 of this 45 million dollars fine, correct?

21 A. You would presume so.

22 Q. All right. And as a union president you are familiar  
23 with leverage, right?

24 A. I think I am.

25 Q. And leverage is how you try to get an advantage, vis a

1 vis whoever you are negotiating with, so that you can compel  
2 within the range of possible outcomes, an outcome that is  
3 more to your liking, correct?

4 A. That is the common definition.

5 Q. All right. And did you not have frequent conversations  
6 -- strike that. Did anyone from TWA ever come to you and say  
7 we need your help to get more leverage in dealing with the  
8 APA?

9 A. Yes, they wanted leverage.

10 Q. Did they suggest to you certain forms of leverage that  
11 they might be able to get if you would agree to that?

12 A. They suggested litigation would be leverage.

13 Q. Litigation would be leverage and you agree litigation  
14 can be leverage, correct?

15 A. If there is a basis for the litigation.

16 Q. All right. Isn't litigation, does it have to be a slam  
17 damn winner to have leverage or can it be a low percentage  
18 and still provide leverage?

19 A. I think the other side has to feel it is a credible  
20 threat and not frivolous. If they are not worried about it,  
21 it is not leverage.

22 Q. If they are not worried about it, it is not leverage.  
23 Leverage is something that the other side is worried about,  
24 correct?

25 A. Correct.

1 Q. Now, I jump around a little bit here. There are a lot  
2 of documents offered to you and I have my own documents. I  
3 am going to go through the documents Mr. Katz used first.

4 THE COURT: The ones you are using now are already  
5 in evidence.

6 MR. JACOBSON: Yes, the ones done with Mr. Katz. We  
7 will replot some of the ground a little later, all right,  
8 sir.

9 A. Okay.

10 Q. You talked about the pilot unity campaign. Is it fair  
11 to say you are a trade unionist. That is your personal  
12 philosophy?

13 A. Yes, it is.

14 Q. By a trade unionist we mean you are someone who believes  
15 that everyone involved in a particular craft or a particular  
16 skill should all been in the same union?

17 A. I believe that.

18 Q. So it is your belief that all the flight crew, the  
19 captains, and the first officers, and to the extent that  
20 there are still any second officers or flight engineers  
21 around, they should all be in the same union?

22 A. I think that would be best for the profession, yes.

23 Q. Best for the profession?

24 A. Yeah.

25 Q. And you are opposed to the notion of company unions?

1 A. I would prefer, as I said before, I prefer everybody to  
2 be in the same union, if possible. I do.

3 Q. And that is not something that is a unique belief to  
4 you, that has been a founding principle of ALPA since the  
5 beginning, correct?

6 A. I think that is absolutely correct.

7 Q. ALPA has always attempted to bring in all the different  
8 pilot groups everywhere into their union?

9 A. We had a lot of organizing campaigns, some successful,  
10 some not.

11 Q. Right. But you are always attempting to bring the whole  
12 world of pilots together?

13 A. Because together you are stronger than.

14 A. That is always the goal, we take reasonable efforts, we  
15 don't just throw spaghetti against the wall. If there is not  
16 a reasonable chance we don't spend the money. We have to  
17 have a reasonable chance of success.

18 Q. Let's go to April 9 through 11. You talked about  
19 earlier, Mr. Katz. This was your exhibit P-244. And page 12  
20 was something you were being asked about earlier. Do you  
21 recall that, sir?

22 A. I remember being asked questions about this, yes.

23 Q. All right. And this is April 9 through 11?

24 THE COURT: What is the number on this?

25 MR. JACOBSON: P-244.

1 THE COURT: P-244.

2 Q. Is that correct, sir?

3 A. I am reviewing it. Just a second. Yes.

4 Q. And to set it in time, do you recall that the TWA pilots  
5 waived their scope, scope protections in their contract on  
6 April 2?

7 A. That's correct.

8 Q. And you visited and spoke to the APA board of directors,  
9 was that April 7, sir or April 9?

10 A. I thought it was April 5.

11 Q. April 5. I knew it was an odd prime number. On April  
12 5. This is April 9, a couple days later?

13 A. Right.

14 Q. And as the Judge noted, you are talking about expanding  
15 your activities. The associates expanding its activities  
16 with four major independent pilots union. Correct?

17 A. That is what the leading paragraph says, yes.

18 Q. And these notes are kept by your office staff?

19 A. They are made by, Jan Redden, who was our secretary who  
20 listened to our debate and encapsulated all into, that is an  
21 hour's worth of discussion captured in four paragraphs, yes.

22 Q. Was Jan at that time, not Ursula?

23 A. My personal secretary did not do this. It was Jan  
24 Redden who worked for Jerry Mugerditchian who was in charge  
25 of the governing bodies.

1 Q. All right. And one of the organizations of course that  
2 as the Judge pointed out earlier was the Allied Pilot  
3 Association, APA?

4 A. Yes, sir.

5 Q. And which according to the official minutes, that is one  
6 of the entities with whom you are expanding your activities?

7 A. We are not expanding -- I gave a briefing of all four.  
8 Two were expanding, two of them were doing nothing with the  
9 report.

10 Q. That is not reflected here, is it, sir?

11 A. That is not reflected there, but that is what I did.

12 Q. Right. And you had the opportunity to review all of  
13 your minutes?

14 A. Of course.

15 Q. The others, you have other people on your staff, you  
16 said almost 500 people, there are other people who are  
17 assigned to review it to make sure they are accurate?

18 A. Of course.

19 Q. After that review process, this is what the minutes  
20 resulted with, correct?

21 A. Yes.

22 Q. All right. It also indicates, the next paragraph,  
23 ALPA's 2001 budget includes \$600,000 for organizing  
24 activities?

25 A. Yes.

1 Q. All right. And that doesn't indicate any particular  
2 airline, correct?

3 A. Not in this budget, but we allocated when we had  
4 something to do. Right now we were only spending money at  
5 this point in time on Continental.

6 Q. You did start spending money on Allied later in the  
7 year, correct?

8 A. We did not expend any money on Allied other than an  
9 investigation on whether we would have to absorb their fine.  
10 We had a legal investigation on that. That was the only  
11 money we expended.

12 Q. And that is that 45 million dollars fine we were  
13 talking about a moment ago?

14 A. That's correct.

15 Q. And you asked the Cohen, Weiss firm to research it and  
16 see whether or not, if you combined with the APA, whether  
17 ALPA would somehow be liable for that 45 million dollars?

18 A. I did.

19 Q. You don't want to be liable for that 45 million dollars.  
20 Correct?

21 A. Of course not.

22 Q. Isn't it a fact that the memorandum they prepared for  
23 you, the legal advice they gave you, said that if the two  
24 unions combined through a merger, there was a risk in fact  
25 that you would be liable for 45 million?

1 A. Yes.

2 Q. But they also told you that if you used an alternate  
3 process of putting out authorization cards, so that American  
4 pilots would sign those cards and of this a National  
5 Mediation Board election, then it was highly unlikely that  
6 ALPA would be liable for 45 million because they wouldn't be  
7 a successor to the APA?

8 A. I don't remember that, but I probably believe that is  
9 true.

10 Q. All right. Do you recall that is the advice they gave  
11 you. I have some memos.

12 A. It was more focused on, since I was not prepared to do a  
13 card campaign.

14 THE COURT: The question is did you get that  
15 advice.

16 THE WITNESS: I think I got the advice, I remember,  
17 your Honor, only the part about the merger. Because that was  
18 the only --

19 THE COURT: You don't remember receiving advice  
20 that the card campaign would avoid that problem.

21 A. I honestly don't remember.

22 THE COURT: All right. The answer is he doesn't  
23 remember.

24 MR. JACOBSON: All right.

25 Q. Let's work our way there a little bit. Exhibit P 264?



1 THE COURT: 264?

2 MR. JACOBSON: Yes, your Honor.

3 MR. KATZ: Do you have a copy of that for me?

4 MR. JACOBSON: I do, sir. I will bring it right to  
5 you.

6 THE COURT: That is not in evidence.

7 MR. KATZ: It is not in evidence and I am going to  
8 object to it H it is an internal memorandum of Cohen, Weiss  
9 and Simon. There is no evidence that it was ever distributed  
10 beyond the walls of that law firm.

11 THE COURT: Can I --

12 MR. JACOBSON: Yes, your Honor. I am sorry. I only  
13 had two copies. I thought I had three.

14 THE COURT: I will give it back to you. Doesn't  
15 this memo show, isn't it reporting on a meeting with John  
16 Cohen, who is the in-house general counsel of ALPA.

17 MR. JACOBSON: Yes, your Honor.

18 THE COURT: The very first sentence.

19 MR. KATZ: It is an internal memo from Michael  
20 Dialo, talking about RSS, that is Robert saddleson, meeting  
21 with John Cohen. It is an internal memorandum. There is no  
22 evidence, in fact there is an affidavit on file in this case  
23 stating that this was only an internal memo that was never  
24 given to anyone outside of the law firm.

25 THE COURT: What are you going to do? You use it

1 to refresh recollection?

2 MR. JACOBSON: I am going to direct his attention to  
3 page 3.

4 THE COURT: Are you going to refresh recollection?

5 MR. JACOBSON: I will use it that way initially.

6 THE COURT: You can use the Subway Reporter to  
7 refresh recollection. It doesn't have to be in evidence. I  
8 will avoid that issue for the moment and use it any way you  
9 want.

10 MR. JACOBSON: All right.

11 THE COURT: I mean to refresh recollection, you  
12 don't need, it doesn't have to be in evidence.

13 Q. All right. Mr. Woerth, would you please look at page 3  
14 of in his document. Three bullet points near the top.

15 A. Okay.

16 Q. Read those bullet points and see if it refreshes your  
17 recollection regarding the approach to be taken to bring APA  
18 into the ALPA fold.

19 A. The paragraph, I am trying to focus where you want me to  
20 read.

21 Q. It says, right underneath where it says work product.  
22 Those three bullet points.

23 A. Oh. I am reading it. I am trying to make sense of it.

24 MR. KATZ: Is the question whether it refreshes his  
25 recollection?

1 MR. JACOBSON: I am waiting to see if he read it.

2 A. I read it.

3 Q. Now, you mentioned earlier that you recalled that the  
4 advice you got was that if there was a merger, that would  
5 likely lead to ALPA being liable for 45 million dollars. Do  
6 you remember saying that?

7 A. Yes.

8 Q. And do you now recall whether you were told that the  
9 combination was not by merger, but through, but through the  
10 issuance of authorization cards?

11 THE COURT: Followed by an election.

12 Q. Following by an MB election that would dramatically  
13 reduce the possibility of any liability?

14 A. It does not refresh my memory. It may be my fault. I  
15 only really wanted the answer to one question. I asked the  
16 lawyer a question. He gave me the answer to a question I  
17 didn't ask. I only cared about the merger. I was never  
18 going to do a card campaign. So whatever they advised me on  
19 a card campaign, I don't remember it because I was completely  
20 disinterested. I would never do a card campaign on  
21 American. I wanted to know what about a merger, and I  
22 stopped reading or listening after that. That is probably  
23 why I don't remember. I didn't care about it.

24 THE COURT: Even if it would get you 11,000  
25 American pilots? I mean that is the jewel, at that time,

1 supposed to be the jewel of the domestic airline industry.

2 THE WITNESS: Your Honor, I would respectfully  
3 disagree.

4 I never, the point of the union is to have a strong  
5 union. You can win an election by one tenth of one percent  
6 and you have won, and now you have got a boat load of  
7 trouble.

8 We did that with Federal Express, and we won. And  
9 two years later they decertified it. We lost millions of  
10 dollars, big fight, took us six years to get them back. I  
11 was committed to only one way, not a card campaign which  
12 would be viewed as hostile.

13 My judgment was the only way to have a long-term  
14 success, not even an election success, was by a merger. That  
15 is what I was committed to.

16 THE COURT: Does the card campaign have to be  
17 hostile?

18 A. I viewed it -- with independence -- when you are not  
19 organized, you are not fighting another union. When you are  
20 already organized, I believe they were viewed as hostile. If  
21 they hadn't agreed to it, if the board wasn't on board like  
22 we did with Continental and Fed Ex, it would be competing  
23 campaigns. I just saw that as failure. That was my  
24 judgment, long-term failure. Even if you won the election  
25 you wouldn't win much.

1 Q. Right. But if the APA board, if the people who were in  
2 charge of APA, really wanted to merge with you, and they  
3 wanted to accommodate your interest in avoiding picking up  
4 this 45 million dollars fine, sir, wouldn't it be appropriate  
5 then to say you have our blessings, go forward with the card  
6 campaign, we don't consider it hostile? We understand we  
7 need to cooperate with you this way in order to avoid this  
8 fine flowing through to ALPA?

9 A. That question never occurred to me or anybody else that  
10 I was aware of.

11 Q. And you don't recall receiving advice that as long as  
12 you minimized ALPA's, APA's official involvement in the card  
13 campaign and did it with ALPA money, that that would further  
14 immunize ALPA from any liability for the 45 million dollars?

15 A. I think I already testified I wasn't listening to  
16 anything about a card campaign. I was determined to only do  
17 a merger.

18 Q. Let me give you a document, keep that one up there. Let  
19 me give you a document marked as P 10.

20 THE COURT: P 10.

21 MR. JACOBSON: Yes.

22 THE COURT: All right.

23 Q. Do you have that document, sir?

24 A. Yes.

25 Q. And that document is a transcript of sorts, a rough

1 transcript, of your comments to the APA board of directors on  
2 Friday, October 27, 2000 with a cover letter forwarded to you  
3 for your review and correction, if needed.

4 A. That is what it is, yes.

5 MR. JACOBSON: At this time I offer P 10 in  
6 evidence.

7 MR. KATZ: No objection.

8 THE COURT: Okay. P 10 in evidence.

9 Q. Let's look at the cover letter first. It is addressed  
10 to you and it is signed, "Fraternally, by Captain John  
11 Darrah, president of the APA?" Right?

12 A. Yes.

13 Q. Addressed to you, Captain Woerth. Could you -- oh, you  
14 got it there. All right. Thank you. Thanks you for coming  
15 to their headquarters, right?

16 A. Yes.

17 Q. Thanks you for sharing your goals about the unity  
18 campaign?

19 A. Yes.

20 Q. And that is the unity campaign that includes bringing  
21 APA back into ALPA, correct?

22 A. Yes.

23 Q. He tells you that they, they, that is the APA, has now  
24 formed an ALPA Exploratory Committee, correct?

25 A. That's correct.

1 Q. That is a committee that is going to explore what the  
2 pluses and minuses are of APA reaffiliation with ALPA,  
3 correct?

4 A. Yeah.

5 Q. They plan on working on that on the next three months,  
6 to have that committee do its investigation. Correct?

7 A. That is what it says.

8 Q. All right. And you have apparently committed to provide  
9 their committee chairman with materials and assistance and to  
10 and pursues his investigation, correct?

11 A. I believe when they were there they asked for certain  
12 documents and I told them we would provide it to them, sure.

13 Q. You did provide it to them, right?

14 A. I would hope so.

15 Q. Speaking of which, I have here a couple of books which I  
16 just want you to identify first. You are familiar with the  
17 book, Flying the Line?

18 A. Sure.

19 Q. This is a history of the first 50 years of ALPA,  
20 correct?

21 A. Yes, it is.

22 Q. It was written in cooperation with ALPA?

23 A. I believe so, sure.

24 Q. When it was first published it was serialized in ALPA's  
25 magazine, Airline Pilot?

1 A. Yes.

2 Q. It is given to every new ALPA member when they join?

3 A. Yes.

4 Q. You delivered it to APA although you suggested they were  
5 familiar with it?

6 A. Yes.

7 Q. They were?

8 A. This are in it.

9 Q. They are in it. Then there is a second book, Flying the  
10 Line, Volume 2?

11 A. Yes.

12 Q. And that is an additional history from the point where  
13 the first one let off?

14 A. Same author, yes.

15 Q. Same author, full cooperation of ALPA.

16 A. Sure.

17 Q. Also given to new ALPA members as they come on board,  
18 let them know what they are joining?

19 A. Yes.

20 Q. I direct your attention if I could, we are back to  
21 exhibit P 10. Page 16 of 35.

22 THE COURT: Upper left-hand corner.

23 MR. JACOBSON: Thank you, your Honor.

24 Q. You see near the bottom of that page there is a question  
25 buy Capital Jeffrey Sheets.



1 A. Let me look on this.

2 Q. You see. Captain Jeffrey Sheets asks a question?

3 A. Yes.

4 Q. He says, some individuals feel that ALPA would not want  
5 this right now due to our legal problems and the fine. Do  
6 you see that?

7 A. Yes.

8 Q. And in addition to the 45 million dollars fine, wasn't  
9 the APA at that time the subject of a litigation filed on  
10 behalf of American airline pilots claiming that the wildcat  
11 strike had injured them? Do you recall that, sir?

12 A. I real you don't recall. It is probably true, but it  
13 escapes me.

14 Q. It has been a long time. That is all right.

15 Let's turn right to the bottom of that line you  
16 start off, there is a sentence that goes on to -- let's read  
17 the whole paragraph there. You told them we want you right  
18 now. Correct.

19 A. Absolutely.

20 Q. "I am not worried about your fine." You told them that  
21 as well?

22 A. Yes, I did.

23 Q. And you are probably already in some discussions on that  
24 fine. We have some concerns about the state claims.

25 That is referring to the lawsuit I was mentioning.

1           We have a plan with our attorneys to try to find a  
2 way to, someone couldn't figure out what your word was, that,  
3 or blunt it. Do you see that?

4       A.    Yes.

5       Q.    You continue at the bottom, at any point in time there  
6 is going to be a lawsuit everywhere. Correct?

7       A.    That has been proven to be true.

8       Q.    Turn to the next page. Top of the paragraph there. In  
9 fact, you were in the process of trying to bring Continental  
10 on board. You testified that already?

11      A.    Yes.

12      Q.    They had some duty of fair representation lawsuits  
13 pending against their union at that time?

14      A.    Yes.

15      Q.    That wasn't stopping you with Continental?

16      A.    No.

17      Q.    And then you conclude, starting in the middle there, we  
18 want you. We will deal with the financial issues around it  
19 and we will deal with the legal parameters to protect  
20 ourselves, but there are ways to do so. I am not concerned  
21 about your current legal situation or your fines. I am sure  
22 we can deal with that. Correct?

23      A.    That is what I said.

24      Q.    And that is what you told the APA board of directors as  
25 you are sitting there addressing this question from the

1 American pilot?

2 A. Yes.

3 Q. You intended that to be a truthful statement to them?

4 A. Sure.

5 Q. To express your strong interest in having the APA come  
6 on board?

7 A. Absolutely.

8 Q. And the fact that the 45 million dollars fine wasn't  
9 going to be an issue because you already had the lawyers  
10 working on that?

11 A. I wanted American in my union, absolutely. As did the  
12 whole board of directors.

13 Q. Right. And in fact you had gotten the advice from your  
14 lawyers before you went to that meeting with American  
15 Airlines. APA?

16 A. I don't remember the exact sequence. It wouldn't have  
17 mattered. I always wanted American in my union.

18 THE COURT: Hold it. You told them here that you  
19 had spoken to your lawyers.

20 A. Yes.

21 THE COURT: You were telling the truth, weren't  
22 you?

23 A. Absolutely I was telling the truth.

24 THE COURT: You had consulted with your lawyers  
25 about getting around the fine issue and the other litigation

1 before you addressed the American union.

2

3 A. That's correct.

4 Q. That is because you wanted to know whether the fine  
5 would prevent you from going forward. Correct?

6 A. I wanted to know the full ramifications of the issue,  
7 yes.

8 Q. And in fact your lawyers told you, you said this  
9 earlier, that if there was a merger between APA and ALPA,  
10 that the fine would be a problem?

11 A. Yes.

12 Q. You would have liability for that?

13 A. Yes.

14 Q. Does that help you recall that they told you also that  
15 if you did a card authorization instead, that it would be a  
16 problem, that is why you are telling the pilots that it is  
17 not a problem?

18 A. That doesn't refresh my recollection at all or change  
19 what I call about the card. As I said before. I am only  
20 interested in a merger. Maybe I have tunnel vision, but that  
21 is my testimony.

22 THE COURT: Other than the card campaign, how were  
23 you going to get around the 45 million dollars fine, other  
24 than by the rather established route of the card campaign  
25 which is a very standard union way of organizing.

1 A. Your Honor, probably going to do it the same way the  
2 American pilots final did, through negotiation with American  
3 Airlines to get it reduced. That was my strategy.

4 Q. You didn't say anything in this statement here that  
5 don't worry, we will negotiate with the airline and get the  
6 fine reduced?

7 A. No.

8 Q. You said we talked to our lawyers?

9 A. Sure.

10 Q. Okay. The two Flying the Line books, you mentioned  
11 those on page 2 of this transcript, 235, right?

12 THE COURT: Right in the beginning.

13 Q. In the beginning?

14 A. All right.

15 THE COURT: Did you see that, page 2 of 35?

16 A. Yes, I do.

17 Q. And you tell the American, this is the beginning of your  
18 statement to the American pilots, you tell them we want to  
19 get back to the core, what works for all trade unions and the  
20 same thing that works for business. You consolidate power or  
21 money. Right?

22 A. Yes.

23 Q. Correct, sir?

24 A. Sounds like me.

25 Q. And you want to get all the political power concentrated

1 in one place?

2 A. I believe in that.

3 Q. All right. And in fact, ALPA, because of its charter  
4 would be AFL-CIO, has -- issues important to it, has the  
5 backing at that time of 13 million unionized employees?

6 A. That's correct.

7 Q. And one of the largest political players in Washington?

8 A. Yes.

9 Q. And that was an advantage you were bringing to the table  
10 that the American pilot didn't have?

11 A. I believe that to be true.

12 Q. You told them that as well?

13 A. Of course I did.

14 Q. Let's go to the beginning of next paragraph, if we  
15 could. First five or six lines. You told the American  
16 pilots one of the things you want to emphasize, what about  
17 unity campaign is a real drive to try to reunite. And that  
18 is what it is, to reunite the Air Line Pilots Association.  
19 Correct?

20 A. Yes.

21 Q. You tell them your Constitution, policy manuals, none of  
22 that is written in stone?

23 A. That is true.

24 Q. And you are willing to change those to a reasonable  
25 degree in order to get the APA on board?

1 A. Not just APA. We had to change it with Continental, we  
2 had to change it with Fed Ex. That was part of the  
3 negotiating process, yes.

4 Q. You are willing, if necessary, to change not just your  
5 policy manuals, but your Constitution, if necessary, in order  
6 to help bring about the reunification of all the pilots in  
7 one union?

8 A. Let's clarify that. I don't change the Constitution. I  
9 was willing to advocate change to the rest of ALPA to  
10 accommodate these mergers. I would be the strong advocate if  
11 I agreed it was necessary. Absolutely I would.

12 Q. And you understand your boards. You know the people on  
13 your boards, you work with them, you know what their goals  
14 are?

15 A. I know I had to fight for the unity campaign.

16 Q. Let's move to page 3. I am pulling out some of the  
17 things you told them. It is too long to share with all.  
18 Replied ill paragraph on page 3 of 35. You tell them that  
19 they have a lot of talent in their organization, correct?

20 A. Yes.

21 Q. You want to get the most leverage from it?

22 A. Of course.

23 Q. And that you are offering to have them, you are saying  
24 if you join us, then you can leverage us in your fights with  
25 American?

1 A. Sure.

2 Q. And not only that, they can leverage the 70 to 90,000  
3 pilots that ALPA has or will have?

4 A. Sure.

5 Q. And the 14 million members, I said 13 million earlier,  
6 of the AFL-CIO?

7 A. Right.

8 Q. There is a concept in your union called Independence  
9 Plus, right?

10 A. Yes.

11 Q. And if I understand the concept correctly, correct me if  
12 I am wrong, Independence Plus means that the local MEC is the  
13 one that is supposed to be making the decisions on behalf of  
14 the pilots in that MEC. And as long as they don't try, for  
15 example, to bring in a B rate wage or do something else that  
16 s, totally against, anathema, to the main purposes of ALPA  
17 has, they have free rein to do that.

18 A. That is, that captures it pretty closely, yeah.

19 Q. For example, when the American Eagle pilots came to ALPA  
20 and they wanted to have all the different companies under  
21 AMR, that together were branded as American Eagle, and  
22 American said you can have that, but you got to give us a 16-  
23 year contract, you recommended against it, it was ultimately  
24 their choice on whether to do that?

25 A. That was Captain Babbitt, but I agreed with Captain



1 Babbitt, it was their choice and that is what happened, then.

2 Q. You were the vice president, then, number 2 guy?

3 A. Right.

4 Q. And do you believe that the Independence Plus theory is  
5 consistent with putting a great deal of pressure on the MEC  
6 to make a decision to, the way ALPA National wants them to do  
7 it?

8 A. I feel it was actually maybe the other way around. The  
9 point of Independence Plus is pilots will not accept anything  
10 else. It is like the pilots believe an argument had to be  
11 staged right to the federal system, but they wanted their  
12 independence to make decisions as much as they could by  
13 themselves. They understood the benefit of a collective  
14 union, pooling the money, pooling political power, when it  
15 came to their contract, their life, their seniority, that was  
16 their state right. That is how we survived as a union for  
17 now nearly 80 years. Because that is how pilots beleive.  
18 They believe in collectivism until it gets to the door step,  
19 until it is all about them. I agree with that.

20 Q. I think you are agreeing with me that Independence Plus,  
21 that principle would be violated if, for example, the  
22 national union could put huge pressure on MEC to decide  
23 something in a way contrary to what the pilots in that MEC  
24 want.

25 A. I think you are characterizing that in a way I would not

1 agree with, sir. I think our union and advisors give their  
2 best advice, and if somebody doesn't like that advice,  
3 sometimes they call it pressure because they are not hearing  
4 what they want to hear.

5 But I believe arguing that all advisors give their  
6 best advice, whether people like it or whether they accept it  
7 or not, they are always going to get their best advice. That  
8 what is we do.

9 Q. All right. And again, I don't know if you have answered  
10 my question directly, sir. Would you, I understand the  
11 notion of giving advice and letting the pilots decide for  
12 themselves. But do you agree that if the pressure is put  
13 upon the pilots to such an extent that it overwhelms their  
14 will so that they are acting, they vote in a way they are  
15 directed to by ALPA rather than have they been directed to by  
16 their pilots, that would be contrary to the Independence Plus  
17 that ALPA prides itself on?

18 A. That is a theoretical question I have never seen happen  
19 in 30 years of union business.

20 Q. Have you heard about the testimony about what happened  
21 April 2, 2001 here, when the ALPA employee advisors persuaded  
22 the MEC members to vote in favor of waiver of scope. Have  
23 you heard did about that, sir?

24 A. I have heard a lot about that testimony, yes.

25 Q. And would it be fair to characterize what the TWA pilots

1 who were members of the MEC at the time, that they all said  
2 they were put under such pressure that it overwhelmed their  
3 independent view of what they wanted to do, what their pilots  
4 who they were representing had told them to do?

5 A. I have heard that and I found it absolutely astounding,  
6 to hear that.

7 Q. Now, you may not believe that, sir, correct?

8 A. I don't believe it for a second.

9 Q. Whether or not you believe that sir, would you agree  
10 that if that happened, if that happened, as described by the  
11 TWA pilots, that that would be contrary to your view of  
12 Independence Plus?

13 A. I don't see its correlation. They had, our Constitution  
14 sets up our relationships with Independence Plus. Our  
15 Constitution wouldn't change because of a pressure situation.  
16 Our Constitution would survive afterwards. I don't see the  
17 correlation.

18 Q. Let me rephrase it. I must have phrased the question  
19 improperly. Would you agree that if what the TWA pilots  
20 described as being what happened to them, at the hands of the  
21 ALPA employees and ALPA advisors on April 2, if that were in  
22 fact an accurate description of what happened, that that  
23 conduct by the ALPA advisors and the ALPA retained -- the  
24 ALPA employees, would in fact violate ALPA's constitutional  
25 set up of Independence Plus.

1 MR. KATZ: Your Honor, I rise to object. I don't  
2 think there is any foundation that the witness news all of  
3 the testimony by the TWA -- by the plaintiffs.

4 THE COURT: I don't know if he knows all the  
5 testimony but he already said he knows a lot about what went  
6 on April 2. He just gave an answer that said that.

7 MR. KATZ: I think counsel is just arguing with the  
8 witness at this point. I object.

9 THE COURT: I will not stop him now. Ask the  
10 question again. Get an answer, let's go on.

11 Q. My question is simple, sir. Based on what you have  
12 heard, the reports you have heard of what the TWA MEC members  
13 and the other TWA pilots present there April 2, 2001, what  
14 they describe as the pressure brought on them, by the ALPA  
15 employees, and advisors retained by ALPA, would you agree  
16 that if the description, if true, I know you don't believe it  
17 is true, that that would be contrary to ALPA's Constitution  
18 provisions relating to Independence Plus?

19 A. First of all, I would like to correct, your Honor, that  
20 I have heard a lot about the testimony and also heard it  
21 immediately after April 2. What I heard about the events  
22 after April 2 do not reflect what I am hearing --

23 THE COURT: No. He understands you don't agree  
24 that is what happened. His question was if it did happen  
25 that way, would it be a violation of the Independence Plus

1 provisions of the ALPA Constitution. He is not asking you to  
2 agree that it happened. He is only asking you that if it did  
3 happen that way, would it violate the Constitution. Do I  
4 have that right?

5 MR. JACOBSON: Yes, your Honor.

6 THE COURT: He is not asking you to agree with it.

7 A. I understand. I don't think it would violate our  
8 Constitution. I think it would be bad professional conduct  
9 and I wouldn't appreciate it, but I don't know about a  
10 constitutional violation.

11 Q. I understand. Turn to page 4. About the fourth line  
12 down. There are, the next three lines. Do you see, fourth  
13 line down, your statements to the Allied Pilots say, talking  
14 about members of your MEC's. Quote. They make all the  
15 decisions on their own property. Nobody tells them what to  
16 put in their opener, what to take off the table. Close  
17 quote. Do you see that?

18 A. Yes.

19 Q. Are you aware that according to the TWA MEC's  
20 negotiating committee, merger committee, thank you, merger  
21 committee, that they were directed by ALPA employees who came  
22 to the first negotiation session with the APA, that they  
23 would need to offer to staple some 800 plus TWA pilots, in  
24 their opening offer.

25 MR. KATZ: Objection, it is contrary to the record.

1 THE COURT: I am not sure. I am going to let the  
2 question go.

3 Q. In their offer in order to be able to get a deal done  
4 with the American pilots?

5 A. I am unaware of that.

6 THE COURT: Next question.

7 Q. If the jury were to find that the ALPA employees in fact  
8 told the merger committee what to put in their opening offer,  
9 that would be contrary to what you are telling me the  
10 American pilots here?

11 A. I don't believe anybody would tell them what, they might  
12 advise them what they thought would help, if they thought  
13 there was a limited timeframe. But I don't think any ALPA  
14 employee every thought they could direct any pilot to do  
15 anything. Any pilot, any airline.

16 Q. Could you agree for an ALPA employee or adviser to do  
17 that, to direct the merger committee or any other body of the  
18 MEC, what to do, what to put in their offer, that that would  
19 be the kind of arbitrary conduct that you would not permit in  
20 your union?

21 A. I would agree with that.

22 Q. All right.

23 Q. Now, one of the things that you told the American pilots  
24 and I think it is reflected throughout your literature is  
25 about the political power that ALPA has in Washington, D.C.

1 Do you agree ALPA has political power?

2 A. I do agree with that.

3 Q. Is that one of the selling points ALPA presents to the  
4 pilots and pilot groups who are considering coming to ALPA??

5 A. I am sure it is.

6 Q. You yourself extoll it in your communications, correct?

7 A. Absolutely I do.

8 Q. When you talk to the Continental pilots you told them,  
9 you know, you are better off with us representing your  
10 interests in Washington, D.C.?

11 A. Of course.

12 Q. Said the same thing to the American pilots, right?

13 A. Absolutely.

14 Q. Same thing to Fed Ex pilots?

15 A. Sure.

16 Q. Every time you talk to the pilot group one of the  
17 things you extoll is the fact that ALPA has strong political  
18 range?

19 A. Sure.

20 Q. You brag short of the President and Vice President on  
21 something that is important, you get a meeting on that issue  
22 with someone in government the same day?

23 A. You have to refresh me what we are talking about.

24 Q. If there is a political issue of concern to ALPA, if you  
25 want a meeting with somebody, short of the President or Vice

1 President, you don't advertise an ability to get to them.

2 A. Right.

3 Q. You can get to a meeting with someone you need to that  
4 day?

5 A. That is generally true.

6 THE COURT: The question is not only is it  
7 generally true, but that you extoll that when you are  
8 speaking.

9 A. I do. It is generally true. I say it all the time.

10 Q. And in fact, when ALPA was being formed, the decision  
11 that the founders made was before we have a power to start  
12 doing collective bargaining, let's work on power in  
13 Washington, D.C. to get the laws we want that protected our  
14 interest, and that was the focus?

15 A. The focus for the whole profession, mostly safety,  
16 that's correct.

17 Q. All right. And in fact, no, those legislation efforts  
18 were referred to as being so special interest legislation  
19 back then. Special, for the special benefit of pilots?

20 A. And the public, flying public was benefiting by a safe  
21 system.

22 Q. Correct. And you don't have any problem personally with  
23 the notion of pilots pursuing special interest litigation to  
24 benefit pilots?

25 A. No.



1 Q. That is part of what you do?

2 A. Part of the whole profession, absolutely.

3 Q. That is part of your strength, to get the special  
4 interest litigation that your constituents need?

5 A. Yes.

6 MR. JACOBSON: I am trying to skip over things.

7 THE COURT: I am not bothering you.

8 MR. JACOBSON: I know. We all have places to go  
9 here, your Honor.

10 Q. Do you know a man named John Clark?

11 A. Yes.

12 Q. How do you know Mr. Clark?

13 A. Mr. Clark used to be on the board of APA board, and he  
14 was an extremely interested person in APA joining the Air  
15 Line Pilots Association.

16 Q. All right. In fact, he was the person who filed the  
17 motion for the -- for APA's ALPA Exploratory Committee?

18 A. Probably so.

19 Q. All right. And he was the person who took the lead in  
20 collecting the vote authorization cards?

21 A. He did it on his own volition for his own campaign.  
22 ALPA had nothing to do with what he was doing, but he did do  
23 that, as I understand.

24 Q. Okay. So the answer is yes, he is the person who helped  
25 lead the authorization card campaign to bring ALPA on to the

1 property at American Airlines?

2 A. Within American. American campaign.

3 Q. I understand. The answer is yes, that is the person,  
4 John Clark?

5 A. That is the person.

6 Q. And in fact you met Mr. Clark in Las Vegas, Nevada, at  
7 the AFL-CIO convention?

8 A. I did.

9 Q. At that point he delivered a large quantity of  
10 authorization cards to you and Mr. Mugerditchian?

11 A. Delivered a package. I have no idea how many cards were  
12 in there busy didn't care but he give us some cards. He gave  
13 them to Mugerditchian, yes.

14 Q. Over a thousand cards, right?

15 A. I haven't a clue how many cards were there.

16 Q. And a disk with the index of all the cards, database of  
17 the cards, correct?

18 A. I don't know anything about that.

19 THE COURT: Nobody opened the envelope, you just  
20 burned it.

21 A. I, we had lunch, your Honor. At that luncheon meeting.  
22 He had it in a suitcase. I had to leave. I said leave  
23 whatever you have with Mr. Mugerditchian, but I was also  
24 clear, thank you for your interest but I was not going to do  
25 a card campaign. He left the meeting highly disappointed

1 that we had nothing to discuss hear. Thank you for are  
2 efforts. I know you love ALPA, but sorry, we can't help you.  
3 Q. So does the fact that Mr. John Clark, a member of the  
4 board of directors of APA, is collecting these authorization  
5 cards for you, does that in any way refresh your  
6 recollection --

7 MR. KATZ: I object to that question. That  
8 misrepresents the record.

9 THE COURT: At that time words "for you" out.

10 MR. JACOBSON: I am sorry.

11 MR. KATZ: ALPA, he was not a member of the board  
12 when he was doing his card campaign.

13 THE COURT: That I don't know.

14 MR. KATZ: We saw his testimony on video. Amended  
15 on May 1st.

16 THE COURT: He was conducting a card campaign.  
17 Let's do that. He was an APA pilot, at least at one time he  
18 had been on the APA board.

19 MR. JACOBSON: I will try rephrasing it, your  
20 Honor.

21 Q. Do you recall Mr. John Clark who was an APA pilot who  
22 had been on the board of directors of APA at the time you  
23 came to speak to them in October of 2000?

24 A. Yes.

25 Q. And you understood that he was the individual who had

1 moved the motion for the ALPA Exploratory Committee, correct?

2 A. Yes.

3 Q. All right. And you understood that he left his seat on  
4 the APA board, and began on his own collecting authorization  
5 cards to have the American property join ALPA?

6 A. Absolutely, that is what I understood he did.

7 Q. And he brought these cards to you and Mr. Mugerditchian  
8 in Las Vegas, Nevada?

9 A. Yes.

10 THE COURT: Do you know where he got the blank  
11 cards, before anybody signed them, do you know where he got  
12 them?

13 A. I don't, I have no idea.

14 THE COURT: You don't know. Okay.

15 Q. You don't know whether or not they came from ALPA?

16 A. I never looked at the cards. I wasn't interested in the  
17 cards.

18 THE COURT: But that is not the question. The  
19 question is, that I asked is do you know where they came  
20 from. That is a lot of cards.

21 MR. JACOBSON: That is a lot of cards.

22 A. No, I do not, your Honor.

23 THE COURT: All right. That is all.

24 Q. And had you had any conversations with anyone within  
25 ALPA about the fact that Mr. Clark had left the ALPA, excuse

1 me, the APA board, so that it wouldn't be a direct APA board  
2 working on the authorization card campaign?

3 A. I never discussed Clark's politics on board with anyone.

4 THE COURT: No. The question more precisely, do  
5 you know why he left the board.

6 THE WITNESS: No, I do not.

7 Q. You didn't discuss whether he left the board for  
8 purposes of collecting the cards?

9 A. I have no idea why he left the board.

10 THE COURT: Okay.

11 Q. Do you know a man named Mark Hunnibell?

12 A. Yes.

13 Q. How do you know Mr. Hunnibell?

14 A. I was, I would say, a colleague of Mr. Clark and other  
15 ALPA enthusiast who wanted APA to join ALPA.

16 THE COURT: He is an American pilot.

17 THE WITNESS: Correct.

18 THE COURT: As Clark was.

19 A. Yes, your Honor..

20 Q. And in your, I think we are getting pretty close to the  
21 time?

22 THE COURT: Six minutes.

23 MR. JACOBSON: I am trying to end at a reasonable  
24 point not to keep them over.

25 THE COURT: Go ahead.

1 Q. Did you tell the American pilots that you thought that  
2 as an administrative process, their integration, this is back  
3 at that October meeting at the board of directors, that as an  
4 administrative process integrating APA into ALPA would be  
5 very, very simple?

6 A. I described the methodology where we were doing with  
7 Continental and what I anticipated with Fed Ex, and that was  
8 my anticipation, we would use the same process and I  
9 understood it and I didn't think it to be that complex.

10 Q. In fact you described it as sort of a turnkey operation,  
11 simply chain the sign on the door to MEC, essentially the  
12 same, their employees would now be employed by ALPA, being  
13 the same employees doing the same work, correct?

14 A. I think what you are characterizing is they are going to  
15 keep their independence, after the vote was done, they would  
16 be ALPA, the dues structure would change, but in the end how  
17 they operated every day in Dallas the way Delta operated in  
18 Atlanta would not change. Yes.

19 Q. Okay.

20 Q. Let me direct your attention if I could to page 31 of  
21 35. You see that you are responding to a question from  
22 captain Jeffrey Sheets down there at the bottom. Sheets  
23 tells you that, my question is premature because we haven't  
24 even yet named our guys to the ALPA Exploratory Committee,  
25 but if we were to pursue this, would it be a board decision

1 or a membership vote? Do you know how this proceeds at this  
2 point? Did you see that question?

3 A. Yes.

4 Q. All right. And you told him that, on their side, that  
5 is totally a matter for APA, how they want to do it, correct?

6 A. Correct.

7 Q. Looking a little lower you say, "What we have decided,"  
8 and so the work committed to this process, and we had our  
9 board of directors to do it on the ALPA side, so we are  
10 already committed to doing it, so that I am putting the ball  
11 in your court. Do you see that?

12 A. Yes.

13 Q. And continuing on that paragraph, this is the top third  
14 of that. All we have to do, and we being ALPA, correct?

15 A. Yes.

16 Q. Is agree with 13 guys around the table, the executive  
17 council and financial terms, and have the executive board  
18 which is the master chairman, that is 55 guys. We are  
19 already going to say yes. They have already unanimously  
20 supported it. Do you see that?

21 A. Yes.

22 Q. What you are telling the American pilots here and you  
23 are trying to be honest about it is is your executive council  
24 and your executive board have already unanimously approved  
25 the notion of having the APA come on board?

1 A. What I am telling them, they already know the pilots the  
2 union, the highest governing body said to go out and pursue  
3 things by merger. I think they already knew this but I am  
4 pretty enthusiastic about trying to get them to tell them to  
5 do it, yes.

6 Q. You tell them they are not going to get a document sent  
7 out to 58,000 pilots to vote on, correct?

8 A. Absolutely not.

9 Q. All right. Now you said the technical question was  
10 raised out there. See that? About Six, seven lines down.  
11 You say, a technical question was raised out there. There is  
12 another way to do things, and that is just to run cards at  
13 the National Mediation Board. Unless there is an overriding  
14 reason that might be a legal reason, that might be a devoid a  
15 state claim or something, that would only be done with  
16 concurrence. In other words, I am not going to raid anybody.  
17 Do you see that?

18 A. Yes.

19 Q. Aren't you telling them there that you are willing to do  
20 a card, authorization card program, through the National  
21 Mediation Board, that is the way to do it but you are not  
22 going to raid them.

23 A. I am telling them I am not going to raid them, but also  
24 I am not going to do a card campaign. I didn't mention some  
25 caveat about a state claim. I said what I said.



1 Q. Didn't you just tell them here that another way to do  
2 this is to just run cards at the National Mediation Board?

3 A. I don't view that as giving them a strategy. I told  
4 them what I wanted to do. I was addressing probably a legal  
5 concern they had with state claims.

6 MR. JACOBSON: Your Honor, it is two minutes of two.  
7 I would be moving on to another document.

8 THE COURT: Is this a convenient time for you, too?

9 MR. JACOBSON: Yes.

10 MR. KATZ: Your Honor, if there is any way to  
11 finish the witness up today, we would certainly like to do  
12 that.

13 MR. JACOBSON: There is no way.

14 THE COURT: My sense is we got an hour or more.  
15 Maybe two hours.

16 MR. JACOBSON something in that range.

17 THE COURT: I am, just guessing. Captain Woerth  
18 has to return tomorrow. Tuesday. So we got 200 pages of  
19 transcript today. I know the jury remembers every word of  
20 it. They can probably recite it back to me. But it has been  
21 a long, hard day. So I am going to adjourn for the day. And  
22 we will finish the cross examination and then the redirect  
23 examination and then redirect of Captain Woerth tomorrow  
24 morning, starting at 8:30.

25 Ladies and gentlemen, do not discuss the case among

1 yourselves. Keep an open mind. Do not discuss the case with  
2 your family, friends, loved ones, bus drivers, anybody. Keep  
3 an open mind until you have heard all the evidence. Have a  
4 safe trip home and a safe trip in tomorrow.

5 (Jury leaves the courtroom)

6 THE COURT: Okay. Everybody.

7 MR. KATZ: Can I put something on the record, your  
8 Honor.

9 THE COURT: Yes.

10 THE COURT: You can remain standing, Mr. Katz.

11 MR. KATZ: Thank you.

12 THE COURT: Okay.

13 MR. KATZ: I want to correct the record about the  
14 jumpseat policy. It was attachment 48.

15 THE COURT: Say that again.

16 MR. KATZ: Attachment 48.

17 THE COURT: 48.

18 MR. KATZ: 48 to our opening brief on summary  
19 judgment which was filed on March 12, 2009. I had said  
20 earlier it was attached to the reply brief. It was not. It  
21 was attached to the opening brief that was filed in court on  
22 March 12, 2009.

23 THE COURT: And it was attachment 48.

24 MR. KATZ: Yes, sir.

25 THE COURT: Okay.

1 MR. KATZ: All right.

2 THE COURT: I am going to have one of my law clerks  
3 hit the computer because we have electronic filing.

4 MR. KATZ: Yes, sir.

5 MR. PRESS: Your Honor, I can tell you.

6 THE COURT: Even if if I couldn't find it on my  
7 desk, I will find it.

8 MR. KATZ: It will show up.

9 THE COURT: It will be in the computer.

10 MR. PRESS: We can save your clerk the effort. I  
11 can confirm what Mr. Katz said is true.

12 THE COURT: Oh, you will definitely save me the  
13 effort. Then the condition I put on the admission of the  
14 document has been satisfied. And so it is now in without  
15 condition.

16 MR. KATZ: Thank you, Judge Irenas.

17 THE COURT: Thank you both. I will see you  
18 tomorrow. Who is the next witness, by the way, after the  
19 captain?

20 MR. KATZ: Steve Rautenberg.

21 THE COURT: All right. See you tomorrow.

22 (Adjourned at 2:05 p.m.)  
23  
24  
25

I N D E X.

DUANE WOERTH, SWORN.

DIRECT EXAMINATION

P. 3.

CROSS EXAMINATION

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